

1 BEFORE THE DISCIPLINARY PANEL OF THE CITY COUNCIL  
2 OF THE CITY OF CHATTANOOGA, TENNESSEE

3 -----

4 IN RE: PERSONNEL HEARING OF  
5 SGT. LEIGH TAYLOR NOORBERGEN  
6 MAY 1, 2006

7 -----

7 CITY COMMISSIONERS:

8 JOHN FRANKLIN, JR., CHAIRMAN  
9 LINDA BENNETT  
10 WALLACE POWERS

10 ADVISOR TO COMMISSIONERS:

11 LARRY L. CASH, ESQUIRE  
12 832 GEORGIA AVENUE, SUITE 1000  
13 CHATTANOOGA, TENNESSEE 37402

13 APPEARING FOR CHATTANOOGA  
14 POLICE DEPARTMENT:

15 WILLIAM SHELLEY PARKER, JR., ESQUIRE  
16 POLICE SERVICES CENTER  
17 3300 AMNICOLA HIGHWAY  
18 CHATTANOOGA, TENNESSEE 37406

17 APPEARING FOR SGT. NOORBERGEN:

18 D. SCOTT BENNETT, ESQUIRE  
19 LEITNER, WILLIAMS, DOOLEY  
20 AND NAPOLITAN  
21 801 BROAD STREET, THIRD FLOOR  
22 CHATTANOOGA, TENNESSEE 37402

22 **HALL & ASSOCIATES**  
23 **1010 MARKET STREET, SUITE 402**  
24 **CHATTANOOGA, TENNESSEE 37402**  
25 **423-267-4328**  
**CONNIE CARPENTER, REPORTER**

1 a break for lunch. Then we'll reconvene at 1:00.  
 2 I would like to ask everyone that we not discuss  
 3 any parts of the proceeding outside of this room.  
 4 We'll adjourn at 1:00. Thank you.  
 5 (Recess taken.)  
 6 (Hearing in session.)  
 7 MR. FRANKLIN: We will reconvene our  
 8 hearing at this point. You may call your next  
 9 witness.  
 10 VALERIE MYERS,  
 11 called as a witness, having first been duly sworn,  
 12 testified as follows:  
 13 DIRECT EXAMINATION  
 14 BY MR. PARKER:  
 15 Q State your name, please.  
 16 A Valerie Elizabeth Myers.  
 17 Q Speak up a little bit. Where do you  
 18 live, what part of town?  
 19 A South Brainerd.  
 20 Q Have you lived in Chattanooga all your  
 21 life?  
 22 A Yes, I have.  
 23 Q Who is your mother?  
 24 A Charlene Garrett.  
 25 Q Where does she live?

1 that we could spend time together.  
 2 Q Was she 18 at that time?  
 3 A She was 17.  
 4 Q She's a senior at Howard High School?  
 5 A Yes.  
 6 Q By the way, where do you work?  
 7 A United States Postal Service.  
 8 Q Where is that?  
 9 A 911 Eastgate Loop.  
 10 Q How long have you worked for them?  
 11 A January of '96.  
 12 Q A little over ten years?  
 13 A Yes, sir.  
 14 Q What do there, just out of curiosity?  
 15 A I'm an in-coder. What we do is key in  
 16 the codes on the mail that are unreadable. It  
 17 makes it not wrong so that somebody will get their  
 18 mail.  
 19 Q Prior to last October 12th, had you  
 20 ever be arrested before?  
 21 A No.  
 22 Q I believe you had a ticket one time?  
 23 A For registration.  
 24 Q You got that all straightened out?  
 25 A Yes.

1 A Eighth Street.  
 2 Q Near the intersection of McCallie and  
 3 Central Avenues?  
 4 A Yes.  
 5 Q I believe you have an 18-year-old  
 6 daughter?  
 7 A Yes.  
 8 Q Jasmine Hall?  
 9 A Yes, sir.  
 10 Q Last October 12 did you and your  
 11 daughter have occasion to go visit your mother?  
 12 A Yes.  
 13 Q Before we get to that, has your mother  
 14 had health problems in the past?  
 15 A Yes.  
 16 Q She had a heart attack several years  
 17 ago?  
 18 A Yes.  
 19 Q What was the purpose of your visit to  
 20 your mother that day?  
 21 A We were just going by to check on her.  
 22 The past week she hadn't been feeling well. That  
 23 was my only off day. My daughter's volley ball  
 24 team had just completed their season, and that was  
 25 the only off day she had and I had together so

1 Q But you've never been arrested prior  
 2 to October 12?  
 3 A No.  
 4 Q When you and your daughter got over to  
 5 your mother's house, your daughter was hungry, was  
 6 she not?  
 7 A Yes.  
 8 Q If you would, just kind of pick up the  
 9 story and tell the Council members what happened  
 10 from the point that she left the house to go get  
 11 something to eat.  
 12 A I pulled into my mom's driveway and I  
 13 went inside. My daughter figured that it would be  
 14 a little longer. We were going to get something  
 15 to eat, but once we get over to my mom's house we  
 16 tend to talk a lot. It would probably have been  
 17 probably two or three hours before I left. She  
 18 said, let me go get something to eat right quick.  
 19 I said fine.  
 20 She got in on the driver's side, and I  
 21 went into my mom's house and put my purse down and  
 22 started going through mail. I still have mail  
 23 that comes to that residence. My daughter called  
 24 my cell phone and said, Mom, the car is stopped  
 25 again, come out here and fix it. I stepped

1 outside, just walked back outside and went up to  
 2 the car and noticed --  
 3 Q Let me interrupt. Where was the car  
 4 at the point?  
 5 A It was directly -- she had just pulled  
 6 out of the driveway and was headed forward. So it  
 7 was a couple of feet outside of my mom's driveway.  
 8 Q It was in the alleyway?  
 9 A Yes.  
 10 Q The alleyway runs parallel to McCallie  
 11 Avenue?  
 12 A Yes.  
 13 Q Between the alley and McCallie Avenue,  
 14 along Central at the Kanku's Market; is that  
 15 correct?  
 16 A Yes.  
 17 Q Go ahead.  
 18 A I noticed a patrol car blocking the  
 19 way that she could get out. It's always patrol  
 20 cars right there that block the alleyway. I took  
 21 pictures of it not just at this one incident, but  
 22 I have pictures from at night anytime I come  
 23 through and there are beer trucks, delivery  
 24 trucks, anything. I said let me take a picture of  
 25 that car right quick before I start trying to see

1 She said, may I have your I.D.?  
 2 I said, what's going on?  
 3 She said, you're blocking the alleyway  
 4 and that's illegal.  
 5 I didn't say anything, but you know,  
 6 my expression was like, that's what you were doing  
 7 yourself. I didn't say anything.  
 8 I said, I don't have my I.D. on me.  
 9 She said, so you were driving your car  
 10 without a license?  
 11 I said, ma'am, you did not see me  
 12 driving this car.  
 13 She said, that's not what I'll say in  
 14 court.  
 15 I didn't say anything out loud. I  
 16 just kind of said the situation is just not right,  
 17 you know, her expression and stuff. I went around  
 18 to the driver's side to get the digital camera  
 19 out. She stopped me at the door and pushed it  
 20 closed.  
 21 She said, did I tell you to move?  
 22 I said, okay, you didn't tell me not  
 23 to move. What's going on?  
 24 She said, you need to lower your tone.  
 25 I said, ma'am, I am not speaking any

1 what's wrong. So I went and got the digital  
 2 camera out of the car and started taking pictures  
 3 with my digital camera.  
 4 I walked up in back of the car.  
 5 That's when the sergeant and the meter lady came  
 6 out of Kanku's and saw that I was taking pictures  
 7 of the car. There was a little words said. I  
 8 could see they were looking in my direction. Her  
 9 facial expression didn't look pretty. I --  
 10 Q When you say her, you're talking about  
 11 Sgt. Noorbergen?  
 12 A Yes. So I didn't want any  
 13 confrontation. I started walking back down the  
 14 alleyway. I went to the car and put my digital  
 15 camera back in the car and got in to turn it over.  
 16 It wouldn't turn over. I got out and opened the  
 17 latch on the hood and popped the hood and got  
 18 under it and started messing with the battery  
 19 cables. There was acid around the battery.  
 20 I put the hood down, and when I turned  
 21 around -- when I got back in the car the Sergeant  
 22 pulled down in the alley directly in front of my  
 23 car. She got out and asked me my name.  
 24 She said, what's your name?  
 25 I said, Valerie Myers.

1 louder than you are speaking to me. I said,  
 2 what's the problem? I said, am I under arrest?  
 3 She didn't say anything and just stood  
 4 there and looked at me. It seemed like quite a  
 5 bit of time, like minutes passed, but it was in  
 6 actuality only seconds. She just stood there and  
 7 never said anything.  
 8 Then she said, turn around.  
 9 I turned around and faced the car.  
 10 She said, put your hands behind your  
 11 back.  
 12 I just put my hands back and started  
 13 shaking my head and laughing at what was  
 14 happening. My daughter got out of the car. She  
 15 was saying -- I don't know her exact words but  
 16 something like, Mama, what's going on, what's  
 17 going on.  
 18 I said, Jasmine, go get your  
 19 grandmother and tell her I'm going to jail.  
 20 She placed handcuffs on me. I'm  
 21 facing -- this is the passenger -- driver's side  
 22 of the car. I'm facing this way and had the  
 23 handcuffs on. She proceeded to pull me by the  
 24 handcuffs backwards.  
 25 I was saying, ma'am, I'm losing my

1 balance. I said, if you just turn me around and  
2 tell me which way to walk, I'll walk. I said, you  
3 don't have to drag me.

4 She didn't say anything and started  
5 pulling the handcuffs and stretching my arms. She  
6 took me in between the cars. Once we were in the  
7 between the cars she stopped, hesitated, and got a  
8 better grip and started pulling my head and the  
9 handcuffs that way.

10 I was saying, ma'am, just tell me  
11 which way to walk. I said, you don't have to drag  
12 me.

13 Finally, I was just maintaining my  
14 balance. I just did not want to fall down in the  
15 dirt. I mean, I was handcuffed. She got me  
16 around to her driver's side back door. Then she  
17 walked me around to the back of her car and told  
18 me to spread my legs. She patted me down. Then  
19 she walked me, which was easier because I'm facing  
20 the direction of which way I'm walking. She  
21 walked me and placed me in the car. That's when  
22 another officer drove up and asked did she need  
23 help and things like that.

24 Q Let me back up just a minute. What  
25 was your intent behind taking the pictures? Who

1 could go around.

2 I said, what, the ambulance or  
3 somebody?

4 And he said, they can go around.

5 I said, according to the old saying,  
6 seconds count when you're saving lives.

7 He said, well, it's not my car. I  
8 know whose it is.

9 He went inside Kanku's and told the  
10 other officer whose car it was to move the car and  
11 he did. He was friendly. He wasn't  
12 confrontational.

13 Q He did move it?

14 A Yes, sir.

15 Q I'll show you what has previously been  
16 marked as Collective Exhibit 3. Are these three  
17 of the photographs that you took that particular  
18 day, October 12th?

19 A Yes.

20 Q What has been marked as Exhibit 3A  
21 there, to the left side of that -- let me hold it  
22 up so the council members can see it. To the left  
23 of the photograph is the vehicle operated by the  
24 PST?

25 A Yes.

1 were you going to give the pictures to?

2 A The M.L. King Neighborhood  
3 Association. They send out newsletters monthly.  
4 It's a Weed And Seed Program in place in the  
5 neighborhood. In the newsletter is pictures of  
6 police officers in the neighborhood. You see them  
7 with the kids. They have cleanup days. I know  
8 they have good communications with the police  
9 officers and the neighborhood organizations. I  
10 was thinking if I send them the pictures and ask  
11 them to be a little more considerate of elderly  
12 people that live in the neighborhood that use the  
13 alley, and they'll kind of move their cars to the  
14 side. That was my only intention, just to take  
15 pictures period.

16 Q Do you have a concern about your  
17 mother's health and possibly getting help to her?

18 A Yes. The ambulance or something. One  
19 officer one night when I was taking pictures, he  
20 asked me, what are you doing, do you have a thing  
21 for police officers?

22 I said, no. I said, ya'll could be a  
23 little more considerate when you park your cars  
24 because my mom actually uses the alley daily.  
25 They say that since it's a dual access alley, she

1 Q In the middle is the vehicle operated  
2 by Sgt. Noorbergen?

3 A Yes.

4 Q It appears to me there is enough room  
5 for Sgt. Noorbergen to have parked in front of the  
6 PST's vehicle. Do you recall if there was enough  
7 room for her to park over there that day?

8 A I don't know.

9 Q In the photograph does it look like  
10 there is?

11 A It's a dump street right there, and I  
12 wouldn't advise it. I really wouldn't.

13 Q Do you recall if the other parking  
14 spaces there at the market were all full?

15 A No, I don't. But one of the pictures  
16 that I took, it shows that only three spots were  
17 taken. All the other spots were empty.

18 Q I'll mark this as Exhibit 3D. Is that  
19 one of the photographs you took that day?

20 A Yes.

21 Q That was after they had come out?

22 A Yes.

23 Q And that shows several open parking  
24 spaces in front of Kanku's Market?

25 A Yes.

1 Q Did you raise your voice --  
 2 A No.  
 3 Q -- to Sgt. Noorbergen?  
 4 A No.  
 5 Q Did you scream at Sgt. Noorbergen?  
 6 A No.  
 7 Q Did you scream at any point during  
 8 this whole thing?  
 9 A No.  
 10 Q Did you yell during this?  
 11 A No.  
 12 Q Did you resist being placed under  
 13 arrest?  
 14 A No.  
 15 Q Did you resist her escorting you to  
 16 her car after you had been handcuffed?  
 17 A No.  
 18 Q After she put you in the back of  
 19 patrol car, I think your daughter ran down and got  
 20 your mother?  
 21 A Yes.  
 22 Q Did you hear any of that conversation  
 23 between Sgt. Noorbergen and your mother?  
 24 A Yes.  
 25 Q Did you hear any of the conversation?

1 A I heard my mom ask her, she said,  
 2 ma'am, I'm her mother. Can you tell me what's  
 3 going on?  
 4 She said, I'm arresting your daughter  
 5 for disorderly conduct.  
 6 She was the one who was irate and mad,  
 7 Sgt. Noorbergen.  
 8 Q What happened next? After you were in  
 9 the back of the police car, what happened next?  
 10 A She took me down to the station.  
 11 Q Down to the county jail?  
 12 A Yes.  
 13 Q Go ahead and describe your experience  
 14 there. Walk the council members through it.  
 15 A For one thing, it was humiliating to  
 16 me. I had never been down there. I didn't know  
 17 what to expect from it. I had to take off my  
 18 shoes and belt. I mean, it was just something I  
 19 had never experienced and I never want to again.  
 20 It was women that they placed me with in the  
 21 little room, the holding cell or something. They  
 22 was telling me that if we didn't get out by a  
 23 certain time, they would send me to Silverdale. I  
 24 got afraid. I've never been arrested. I'm sorry.  
 25 I was afraid.

1 There were men in uniforms. I saw one  
 2 shackled. When they said we was going to  
 3 Silverdale, I asked this officer that was down  
 4 there how long before I can call someone to get  
 5 out of here. He said, you'll find out when it's  
 6 your turn. They'll call you.  
 7 To me, he treated me like a common  
 8 criminal. I mean, I just didn't -- excuse me. I'm  
 9 sorry. Less than human, that's the way I felt.  
 10 Q What time did you finally get out?  
 11 A It was 11:30 or 12:00.  
 12 Q Did you mother and daughter pick you  
 13 up?  
 14 A Yes, sir.  
 15 Q Did they wait outside all evening?  
 16 A Yes, sir.  
 17 Q Did you have to post bond?  
 18 A No.  
 19 Q You were released on your own  
 20 recognizance?  
 21 A Yes, sir.  
 22 Q The charges that were brought against  
 23 you for disorderly conduct and resisting arrest,  
 24 what ultimately happened to those charges?  
 25 A We went to court, and she didn't show

1 up the first time. So they rescheduled it. The  
 2 second time she didn't come again. My attorney  
 3 said she would speak with the prosecutor and the  
 4 other attorney and they said they would dismiss  
 5 the charges, but I would have to pay court cost  
 6 and that she could get it expunged from my record.  
 7 I'm a federal employee. They were going to  
 8 discipline me at work, possibly fire me because of  
 9 this.  
 10 Q Did you have to hire an attorney to  
 11 represent you with respect to those criminal  
 12 charges?  
 13 A Yes.  
 14 Q Did you hire a different attorney to  
 15 handle the matters at work?  
 16 A Yes.  
 17 Q Together how much did the two  
 18 attorneys cost you?  
 19 A The exact amount, I'm not sure.  
 20 Q Just a rough figure.  
 21 A About \$750.  
 22 Q Seven hundred fifty dollars?  
 23 A Uh-huh. It was 500 just to see one  
 24 attorney starting out. My job started harassing  
 25 me, and I had to pay another attorney to contact



1 my employer.  
 2 Q Ultimately the record of these charges  
 3 was expunged is your understanding?  
 4 A Yes.  
 5 Q At the time you opened the hood, was  
 6 your daughter in the car?  
 7 A Yes.  
 8 Q She stayed in the car?  
 9 A Yes.  
 10 Q Did she have the door open?  
 11 A Yes.  
 12 Q She was on the passenger side?  
 13 A Yes.  
 14 Q The initial exchange between you and  
 15 Sgt. Noorbergen, was it right there in front of  
 16 the car or over around on the left side?  
 17 A In front of the car.  
 18 Q What kind of vehicle was it that you  
 19 were in?  
 20 A It's an Isuzu Trooper.  
 21 Q Isuzu Trooper?  
 22 A Yes.  
 23 Q From the time that she approached you  
 24 until the time you were placed in handcuffs, how  
 25 long a period of time -- and I know you weren't

1 Q You didn't respond to her?  
 2 A No, sir.  
 3 Q When Sgt. Noorbergen asked you if you  
 4 were driving without a license, your response was,  
 5 you didn't see me drive?  
 6 A Yes, sir.  
 7 Q Later when Sgt. Noorbergen asked you  
 8 to lower your tone, your response to her was that  
 9 you were speaking the same tone of voice as Sgt.  
 10 Noorbergen; correct?  
 11 A Yes.  
 12 Q That's true, isn't it? You two were  
 13 using the same tone of voice?  
 14 A I said, ma'am, I'm talking to you no  
 15 louder than you're talking to me. At that time  
 16 the conversation level was as we are speaking now.  
 17 Q When Sgt. Noorbergen placed you under  
 18 arrest she cuffed you; correct?  
 19 A Yes.  
 20 Q Do I understand correctly that she  
 21 cuffed you with your hands behind your back and  
 22 pulled you backwards?  
 23 A By the handcuffs.  
 24 Q At some point she grabbed your head?  
 25 A Yes.

1 looking at your watch probably. Do you know about  
 2 how long it took for all that to transpire?  
 3 A I'm not sure, but approximately no  
 4 more than ten minutes.  
 5 Q Would you be surprised if I told you  
 6 the radio traffic said it was exactly two minutes?  
 7 A Yes. Very surprised.  
 8 MR. PARKER: I believe that's all.  
 9 CROSS-EXAMINATION  
 10 BY MR. BENNETT:  
 11 Q Ms. Myers, good afternoon. My name is  
 12 Scott Bennett. I'm the attorney representing Sgt.  
 13 Noorbergen in this matter. I've got a few  
 14 questions for you. When you were looking under  
 15 your hood, you didn't hear Sgt. Noorbergen  
 16 approach and ask if there was a problem, did you?  
 17 A No, sir.  
 18 Q Earlier when you were taking pictures  
 19 of the vehicle, of police vehicles, you did hear  
 20 Sgt. Noorbergen say what her car number was;  
 21 correct?  
 22 A Something to that effect, kind of  
 23 snipey.  
 24 Q You heard her say something?  
 25 A Yes.

1 Q And pulled you back by your head and  
 2 your handcuffs; is that right?  
 3 A Yes.  
 4 Q Let me show you what we have already  
 5 marked as an exhibit. This is Exhibit 12. Do you  
 6 recognize that?  
 7 A Yes, sir.  
 8 Q Is this a statement that you put  
 9 together for internal affairs?  
 10 A Yes, sir.  
 11 Q And the first full paragraph on the  
 12 second page where you're describing the  
 13 handcuffing, take a minute to look at that and  
 14 refresh your recollection.  
 15 A (Witness complies.)  
 16 Q Have you read it?  
 17 A Yes, sir.  
 18 Q Does this statement represent an  
 19 accurate description of events that transpired  
 20 between you and Sgt. Noorbergen?  
 21 A It's accurate as I can recall. It was  
 22 very disturbing.  
 23 Q Look at the second sentence in  
 24 particular. The officer began forcibly pulling me  
 25 by the handcuffs, almost making me lose my

1 balance.  
 2 A Yes.  
 3 Q Today you recall that happening;  
 4 correct?  
 5 A Yes, sir.  
 6 Q She grabbed you by the handcuffs and  
 7 was pulling you backwards?  
 8 A Yes, sir. She didn't say walk to the  
 9 car or anything. I was just turned and she was  
 10 behind me. I didn't know what she was doing  
 11 behind me. She just began pulling me.  
 12 Q She pulled your backwards?  
 13 A Yes, sir.  
 14 Q And grabbed your head too?  
 15 A Not at that time.  
 16 Q A little later she grabbed your head?  
 17 A Yes, sir.  
 18 Q Do I recall, also, from the statement  
 19 that you gave Sgt. Mincy that you felt you were  
 20 being dragged to the ground?  
 21 A Once we got in between the cars, yes,  
 22 that was my opinion and the way I felt. She  
 23 hesitated when we went in between the cars. She  
 24 stopped, and that's when she grabbed my head and  
 25 began pulling me. It was even more so like she

1 you were going to get hurt?  
 2 A Yes, that she was going to hurt me.  
 3 Q I assume as you're being pulled  
 4 backwards you were trying to maintain your balance  
 5 and you were trying to lean forward to stay  
 6 upright; correct?  
 7 A I wasn't leaning forward. I was just  
 8 trying to step according to the direction she was  
 9 pulling.  
 10 Q So you were trying to step back the  
 11 way you thought she wanted you to go so you could  
 12 stay upright?  
 13 A The way she was pulling me.  
 14 Q In the direction she was pulling you  
 15 were leaning accordingly to try and stay upright?  
 16 A To stay with her, yes.  
 17 Q As you were being placed under arrest,  
 18 did you notice some individuals in the alleyway  
 19 above your car?  
 20 A At what time would this be?  
 21 Q I don't know what time it would be.  
 22 During the time you were having the discussion  
 23 with Sgt. Noorbergen.  
 24 A The discussion before she handcuffed  
 25 me or after?

1 was trying to pull me down to the ground instead  
 2 of trying to walk me toward the car.  
 3 Q So your perception from where you were  
 4 then was that you were handcuffed and you felt  
 5 that Sgt. Noorbergen was pulling you back hard  
 6 enough that maybe she was dragging you to the  
 7 ground; is that correct?  
 8 A When she stopped in between the cars,  
 9 that's when she stopped and hesitated. I was  
 10 hoping she would turn me around and let me walk  
 11 toward the car, but she just -- like I say, she  
 12 was behind me. I don't know what she was doing.  
 13 It was like she just got a grip or got her balance  
 14 and started just pulling. I'm like, ma'am, please  
 15 just tell me which way to walk.  
 16 Q You felt you were being pulled upon  
 17 pretty forcibly, didn't you?  
 18 A Yes, like she was trying to hurt me.  
 19 Q Would you say she was pulling on you  
 20 pretty vigorously?  
 21 A Forcibly. Honestly, it felt like her  
 22 intent was to do harm to me. I wouldn't say  
 23 vigorously.  
 24 Q Whatever that word means, you felt she  
 25 was pulling on you hard enough that you thought

1 Q Before or after.  
 2 A During the discussion no one was in  
 3 the alley. My daughter was in the car and that  
 4 was it. After she placed me behind the car and  
 5 told me to spread my legs, we were further up the  
 6 alley which means people at the pumps could see  
 7 us. My daughter had ran to get my mother and they  
 8 came back out.  
 9 Q Do you recall any individuals? I  
 10 think you maybe described to Sgt. Mincy that there  
 11 were crack-heads in the alleyway?  
 12 A No. What I said in the statement was  
 13 that there are normally crack-heads in this alley,  
 14 selling and buying crack. I have seen a city  
 15 employee engaged in a sexual act. I never said  
 16 crack addicts were in the alley at that time.  
 17 Q So if there were any crack-heads or  
 18 any other individuals in the alley at that time,  
 19 you didn't see them?  
 20 A No one was there. I'm positive. You  
 21 have to understand, my job is to take care of my  
 22 daughter. I do not bring unwanted and unnecessary  
 23 attention to myself. I'm quiet and reserved, and  
 24 I stay to myself and I work, period. I can't  
 25 afford to go to jail and do things like that,

1 illegal things. So go ahead, ask your question.  
 2 Q Ma'am, your daughter described your  
 3 condition after you had been taken to the car.  
 4 She said your hair was messed up. Do you recall  
 5 that?  
 6 A Yes.  
 7 Q Was your hair messed up by Sgt.  
 8 Noorbergen trying to bring you into custody?  
 9 A Yes. I recall that because once she  
 10 got me behind the car there were other individuals  
 11 at Kanku's, pumping gas. Yes, I recall that  
 12 because I was embarrassed by it. That's the  
 13 neighborhood that my child grew up in. Her  
 14 friends and she walk around the neighborhood.  
 15 They patronize Kanku's all the time. It's  
 16 embarrassing for her as well. Yes, I was aware  
 17 that my hair was all over my head. I didn't want  
 18 her to be embarrassed by the situation.  
 19 MR. BENNETT: No further questions.  
 20 REDIRECT EXAMINATION  
 21 BY MR. PARKER:  
 22 Q Did Sgt. Noorbergen ever ask you  
 23 during this whole thing if you needed any  
 24 assistance.  
 25 A No, sir.

1 A Yes.  
 2 Q Where are you going to school next  
 3 year?  
 4 A I don't know.  
 5 Q Were you present last October 12, when  
 6 your mother was arrested by Sgt. Noorbergen?  
 7 A Yes, sir.  
 8 Q You and your mother went to visit your  
 9 grandmother?  
 10 A Yes.  
 11 Q What was the purpose of the visit?  
 12 A I don't know. We just went over there  
 13 to spend time because I play so many sports.  
 14 Q Your volley ball team had just wrapped  
 15 up the season?  
 16 A Yes.  
 17 Q And when you got there did you decide  
 18 to go get something to eat?  
 19 A I was supposed to eat before I got  
 20 there, but she wanted to get to her mom's house.  
 21 So I would drive myself there.  
 22 Q You didn't go in when you first got  
 23 there?  
 24 A I moved to the other side, driver's  
 25 side.

1 RECROSS-EXAMINATION  
 2 BY MR. BENNETT:  
 3 Q Ms. Myers, more to the point, if she  
 4 asked you if you needed any assistance, you didn't  
 5 hear that question, did you?  
 6 A She never asked me that at all.  
 7 Q But, of course, you wouldn't know  
 8 because you didn't hear the question?  
 9 A She never asked me that.  
 10 MR. BENNETT: No further questions.  
 11 (Witness steps down.)  
 12 MR. FRANKLIN: Next witness.  
 13 JASMINE HALL,  
 14 called as a witness, having first been duly sworn,  
 15 testified as follows:  
 16 DIRECT EXAMINATION  
 17 BY MR. PARKER:  
 18 Q State your name, please.  
 19 A Jasmine Cole Hall.  
 20 Q Who is your mother?  
 21 A Valerie Myers.  
 22 Q You are a student, are you not, at  
 23 Howard High School?  
 24 A Yes.  
 25 Q You're getting ready to graduate?

1 Q Tell me what happened. This was about  
 2 7:00 p.m.?  
 3 A I don't remember.  
 4 Q It was in the evening?  
 5 A It wasn't dark yet.  
 6 Q If you would, just take it from that  
 7 point when you pulled out. Your grandmother lives  
 8 in that alleyway in a house right off the  
 9 alleyway; correct?  
 10 A Yes.  
 11 Q Just tell them what happened.  
 12 A The car, like when I drove up the car  
 13 stopped or whatever. I was like, man. That  
 14 happened all the time. I was going to get out but  
 15 I'm lazy, so I just called her and told her to  
 16 come help me.  
 17 Q Where were you when you called?  
 18 A The alley.  
 19 Q With respect to Kanku's Market, where  
 20 were you?  
 21 A There's a fence right here and then  
 22 Kanku's. We was like -- I was about from the  
 23 garage -- it wasn't that far. My mom came  
 24 outside. She was like -- I mean, she looked at  
 25 the car first and did something underneath it and



1 kind of started it all the way. She was like,  
2 hold on and let me take a picture of that police  
3 car there. She went in the back and got her  
4 camera. She went up and took pictures from the  
5 back.

6 Then I saw the meter maid and the  
7 police officer. I'm like, Mom, come on, come on.

8 That was it. I didn't hear the police officer say  
9 nothing, but I seen her smile and say something to  
10 the meter maid.

11 Q While your mother was taking pictures?

12 A She looked like she was mad. My mom  
13 was already by the car. My mom pulled up again  
14 and started it again. The officer came. She  
15 drove up. The police officer, she drove up.

16 Q She moved her car from --

17 A She moved her car. She was already  
18 parked right there. She drove up toward our car  
19 instead of backing out. She sat in the car for a  
20 minute while my mom was under the hood. Then she  
21 got out. My mom had closed the lid. She was  
22 like, let me see your I.D. Mom was like, why.  
23 She was like, you're blocking the alleyway. My  
24 mom said, but you were blocking the alleyway. She  
25 wanted the I.D. and my mom said she didn't have

1 couldn't believe it. I couldn't believe it. I  
2 guess she was speechless. My grandmother tried to  
3 say what's happening. The police lady told her,  
4 get away from my car because she's going to jail  
5 for disorderly conduct. She slammed the door and  
6 drove off. That's how it was.

7 Q Did you ever hear your mother scream  
8 at any point?

9 A No. My mom was here. They went back  
10 and forth.

11 Q From the point that Sgt. Noorbergen  
12 got out of her car until the time she put your  
13 mother in cuffs, do you know about how much time  
14 passed?

15 A Repeat the question.

16 Q From the time that Sgt. Noorbergen got  
17 out of her car and came toward your mother until  
18 the time she put handcuffs on your mother, can you  
19 estimate how much time passed?

20 A It wasn't that much time. It happened  
21 so quick. I can't tell you. It was just us three  
22 out there. I felt alone. I was standing there  
23 and watching it. I didn't know what to do.

24 Q Did you see the other lady in a  
25 uniform, the police service technician? Did you

1 it.

2 Then the officer said you're driving  
3 without a license. My mom was like, you ain't  
4 seen me driving. I don't know. They're just  
5 going back and forth. My mom walked to the driver  
6 side. By that time I was on the passenger side,  
7 halfway sitting down and like looking. My mom  
8 opened the door, and the lady slammed the door  
9 back and said, I didn't tell you to move. Mom  
10 said, you didn't tell me I couldn't move. She  
11 said, are you going to arrest me or what.

12 By that time I'm like, Mamma, chill  
13 out, whatever. Then that's when the lady went  
14 off. She told her to lower her tone. Mom said  
15 she wasn't talking louder than she was. She told  
16 her to turn around. I ran out of the car and I'm  
17 like, Mamma, Mamma. I'm trying to say just leave  
18 her alone. She was like, get away from me. She  
19 said, your mom is going to jail. She was like  
20 move, move. I didn't know what to do. My mom  
21 told me to go get my grandmother.

22 I went and got my grandmother, and by  
23 the time I got back there, my mom's hair was all  
24 messed up and all over. I'm like, Mamma, what's  
25 wrong with your hair. My mom laughed. She

1 see her there?

2 A She was all way back at the police  
3 car. She didn't move. She was just watching.  
4 She never moved.

5 Q I think you said when Sgt. Noorbergen  
6 first came up -- what was the first thing she said  
7 that you heard?

8 A To my mom?

9 Q Yes.

10 A Let me see your I.D.

11 Q Did you hear Sgt. Noorbergen ask your  
12 mother if she needed any assistance?

13 A No.

14 Q In what position was the hood when  
15 Sgt. Noorbergen came walking up to your car?

16 A It was up.

17 Q Did she close it shortly thereafter?

18 A The second time she asked for her  
19 I.D., that's when mom closed it. Mom was like,  
20 what's going on.

21 Q Did you see Sgt. Noorbergen actually  
22 put the handcuffs on her or did you go down and  
23 get your grandmother before that?

24 A The handcuffs were already on.

25 Q Then you went to get your grandmother?

1 A Yes.  
 2 Q How long did that take for you to go  
 3 get your grandmother and get back up?  
 4 A I ran down there.  
 5 Q So when you went to get your  
 6 grandmother you went behind your vehicle, correct,  
 7 down the alley?  
 8 A (Witness moves head up and down.)  
 9 Q You didn't go in front of your  
 10 vehicle. You went back behind where your vehicle  
 11 was stopped in the alley?  
 12 A Yes.  
 13 Q Did you see anyone else down there in  
 14 the alley?  
 15 A No. My grandmother is the only house  
 16 out there. There's a house in front of my  
 17 grandmother's house and grandmother's garage.  
 18 He's the only one that stays there, and he really  
 19 doesn't go outside unless he has to. He wasn't  
 20 out there. We don't have people there. Wasn't  
 21 nobody out there.  
 22 Q Before your mother had the handcuffs  
 23 put on her, did you see anyone else in the area  
 24 stop to look and see what was going on at all?  
 25 A No. When I came back from my

1 grandmother's, when I saw my mother behind the  
 2 police car, there was people pumping gas and they  
 3 were looking. That's when I started getting mad  
 4 because it felt like she was trying to embarrass  
 5 my mamma by having her out there behind the cars.  
 6 I was like, just put her in the car and don't  
 7 embarrass her. People were out there pumping gas  
 8 and just stopping and looking.  
 9 Q Prior to the time that Sgt. Noorbergen  
 10 put the handcuffs on, did you see your mother  
 11 physically resist in any way?  
 12 A I don't want to say she was mad. She  
 13 was just shaking her head. She pushed her and  
 14 turned her around. She was like, I'm putting you  
 15 under arrest. She was like acting out.  
 16 Q Your mother acted like she couldn't  
 17 believe what was happening?  
 18 A Yes. I was like, please. She just  
 19 kept shaking her head. Both of them made me mad  
 20 because they wouldn't tell me nothing.  
 21 Q A couple of times you had to miss  
 22 school to be in court?  
 23 A Exactly.  
 24 Q Are you missing school today?  
 25 A Yes. I'm missing a very important

1 exam.

2 MR. PARKER: I apologize for that.  
 3 Thank you. That's all the questions I have.  
 4 CROSS-EXAMINATION  
 5 BY MR. BENNETT:  
 6 Q Ms. Hall, good afternoon. My name is  
 7 Scott Bennett. I represent Sgt. Noorbergen. Just  
 8 a couple of quick questions. During the time that  
 9 you were hearing this discussion between Sgt.  
 10 Noorbergen and your mother, you were in the car;  
 11 right?  
 12 A Yeah. I was standing by the car.  
 13 Q From there you could hear your mother  
 14 and Sgt. Noorbergen?  
 15 A I could hear most of the stuff.  
 16 Q You heard Sgt. Noorbergen tell your  
 17 mother to lower her voice?  
 18 A Uh-huh.  
 19 Q At that point in time your mother and  
 20 Sgt. Noorbergen were speaking in the same tone?  
 21 A Yes.  
 22 Q Somewhere around there you told your  
 23 mother to chill out; right?  
 24 A I was like, Mom, just let it go and  
 25 calm down. I just wanted her to get in the car.

1 MR. BENNETT: That's all I have.  
 2 (Witness excused.)  
 3 PATT KAY,  
 4 called as a witness, having first been duly sworn,  
 5 testified as follows:  
 6 DIRECT EXAMINATION  
 7 BY MR. PARKER:  
 8 Q State your name for the record,  
 9 please.  
 10 A Patt Kay.  
 11 Q Where are you employed?  
 12 A City of Chattanooga Police Department.  
 13 Q How long have you been employed in the  
 14 police department?  
 15 A Twelve years.  
 16 Q Your current assignment is police  
 17 service technician?  
 18 A That's correct.  
 19 Q How long have you done that?  
 20 A Two years.  
 21 Q What did you do before that?  
 22 A I was a dispatcher in communications.  
 23 Q For ten years?  
 24 A Yes.  
 25 Q You know Sgt. Noorbergen?

1 A Yes, I do.  
 2 Q Did ya'll last October work the same  
 3 area of town?  
 4 A Yes, sir.  
 5 Q What is your area of responsibility as  
 6 a PST?  
 7 A I'm in the Bravo area from Walnut  
 8 Street down to Main Street.  
 9 Q What are your job duties?  
 10 A We patrol the area and give parking  
 11 citations and work minor accidents and minor  
 12 reports for officers.  
 13 Q As part of your training, if you're on  
 14 the scene where an arrest is being made, are you  
 15 trained to interfere with that or assist the  
 16 officer?  
 17 A No.  
 18 Q You are basically supposed to stand  
 19 back and watch?  
 20 A Yes.  
 21 Q You have a radio?  
 22 A Yes.  
 23 Q But it's not your job and you're not  
 24 supposed to assist in making the arrest?  
 25 A Not at all.

1 Q At approximately 7:00 p.m. last  
 2 October 12th you went to Kanku's Market there at  
 3 McCallie and Central, did you not?  
 4 A Yes, sir.  
 5 Q Had you and Sgt. Noorbergen planned to  
 6 meet there or did you just happen to run into each  
 7 other?  
 8 A We just ran into each other.  
 9 Q What was the purpose of your visit?  
 10 A I went to get a beverage.  
 11 Q You went inside. Let me show you what  
 12 has previously been marked as Collective Exhibit  
 13 3. These are some photographs that were taken by  
 14 Ms. Myers. This is your vehicle on the left side  
 15 of Exhibit 3A?  
 16 A That's correct.  
 17 Q Was Sgt. Noorbergen already there when  
 18 you got there?  
 19 A Yes. We arrived about the same time.  
 20 Q But she pulled in before you did?  
 21 A Yes.  
 22 Q Your vehicle would not have blocked  
 23 her from parking over against this wall?  
 24 A I don't recall. I really didn't look.  
 25 Q She pulled in first. This area would

1 have been open where you were parked?  
 2 A Right.  
 3 Q How long were you in Kanku's Market?  
 4 A About five minutes.  
 5 Q If you would, kind of pick it up from  
 6 that point and tell the council members what  
 7 happened when you came out.  
 8 A When we came out of the market we had  
 9 noticed Ms. Myers taking a picture of the car. I  
 10 looked at Sgt. Noorbergen and said, look, this  
 11 lady is taking a picture of your car. So at that  
 12 time Sgt. Noorbergen turned around and told her  
 13 the car number.  
 14 Q Did she say something like it's 213  
 15 and I don't care, or did she have a comment?  
 16 A I don't recall that. I just remember  
 17 her giving her car number.  
 18 Q What happened next?  
 19 A Then we departed. I started to go to  
 20 my car and Sgt. Noorbergen got in her car to  
 21 leave. Then I noticed that Sgt. Noorbergen was  
 22 stopping and wasn't leaving. So I got back out of  
 23 my car and was watching to see what she was doing.  
 24 At that time she got out and initiated a traffic  
 25 stop.

1 Q Do you remember Ms. Myers?  
 2 A Yes.  
 3 Q What was she doing when Sgt.  
 4 Noorbergen got out?  
 5 A Best I remember, she was just standing  
 6 by the car and the hood was up.  
 7 Q Could you hear what was said between  
 8 the two of them after Sgt. Noorbergen approached?  
 9 A No. I couldn't hear it.  
 10 Q In this photograph, Exhibit 3, where  
 11 would you say you were when Sgt. Noorbergen -- did  
 12 she pull her car up from the position that is  
 13 shown here in 3A?  
 14 A No, not that I recall.  
 15 Q Where were you standing when --  
 16 A I was still standing by my car. I had  
 17 started to get in it, but then I saw that she was  
 18 in the middle of a traffic stop. I stopped and  
 19 observed.  
 20 Q Did you ever come closer to where Ms.  
 21 Myers was during that confrontation?  
 22 A I may. The furthest I might have come  
 23 would have been to the end of Sgt. Noorbergen's  
 24 car.  
 25 Q Was that maybe ten to fifteen feet

1 from where they were standing and no closer?

2 A Right.

3 Q At some point you heard her ask on the

4 radio to send another car?

5 A I believe how it went, the dispatcher

6 had checked on her after she had gotten out on the

7 traffic stop and was everything okay. She said

8 for now. Then she had backup coming to her.

9 Q Were you able to understand anything

10 that Sgt. Noorbergen or Ms. Myers said when they

11 were there in front of Ms. Myers' vehicle?

12 A No.

13 Q Did either one of them scream?

14 A I didn't hear anybody screaming. At

15 some point both voices were elevated, but I did

16 not hear screaming.

17 Q Did you see any people in the area

18 gathering to look and see what was going on?

19 A Not from where I was standing.

20 Q Did you see Ms. Myers try to strike

21 Sgt. Noorbergen?

22 A No.

23 Q Did you see Sgt. Noorbergen put

24 handcuffs on Ms. Myers?

25 A Yes.

1 Q Up until that point had Ms. Myers done

2 anything as far as physical resistance to Sgt.

3 Noorbergen?

4 A I couldn't really see from where I was

5 standing. Her car door was open, Ms. Myers. Ms.

6 Myers was behind that. Sgt. Noorbergen was beside

7 that, so I couldn't really see a lot of her

8 movement.

9 Q I know you're not a police officer or

10 a lawyer. Did you observe from where you were

11 anything for which you thought Ms. Myers should be

12 arrested?

13 A I can't answer that because not being

14 an officer, I don't know what would constitute an

15 arrest.

16 Q As a layman, did you see anything for

17 which you thought she should be arrested?

18 A I know that when she handcuffed her

19 and was walking her back --

20 Q I'm talking about up until the point

21 that she was handcuffed.

22 A No. Like I said, their voices were

23 elevated. I don't know what the conversation was.

24 Q Not so elevated you were able to

25 understand what they were saying?

1 A Right.

2 Q After she was handcuffed, Sgt.

3 Noorbergen led Ms. Myers back to her vehicle?

4 A That's correct.

5 Q Describe that, if you would. Did Sgt.

6 Noorbergen have to forcibly do that or nudge or

7 push Ms. Myers?

8 A I guess you would call it prodding her

9 along, trying to get her to walk. Ms. Myers

10 seemed to be pulling away from her. She would go

11 from side to side -- trying to lead her to the

12 back of her car.

13 Q Ms. Myers didn't kick her?

14 A No.

15 Q Didn't yank away from her?

16 A The movements were such that she could

17 be moving away as she was trying to walk up the

18 hill.

19 Q She didn't try and run?

20 A No.

21 Q Didn't try to hurt Sgt. Noorbergen?

22 A No.

23 Q Once Sgt. Noorbergen got Ms. Myers up

24 there, I believe she frisked her before she put

25 her in the back of the car?

1 A That's correct.

2 Q At one point Ms. Myers' daughter and

3 mother came up. Did you hear any of the exchange

4 at that point?

5 A They did come up to me, and Sgt.

6 Miller had come up for backup. They were

7 concerned and wanted to know where they were

8 taking Ms. Myers.

9 Q They weren't disruptive, were they?

10 A No, not to me they weren't.

11 Q Were they disruptive to anyone else

12 there at the scene?

13 A Not that I observed.

14 MR. PARKER: I believe that's all.

15 CROSS-EXAMINATION

16 BY MR. BENNETT:

17 Q Ms. Kay, I'm Scott Bennett. I'm the

18 attorney representing Sgt. Noorbergen.

19 A Afternoon.

20 Q When you and Sgt. Noorbergen were

21 leaving Kanku's and you went back to your car, you

22 told us that you heard Sgt. Noorbergen give her

23 car number; is that correct?

24 A That's correct.

25 Q Do you have any idea why she was doing



102

104

1 that?

2 A Well, that's an identifier. Sometimes

3 if an officer gets a complaint on them, that's

4 pretty much how you can track who the officer is.

5 Q So Sgt. Noorbergen was actually saying

6 this is my identifier?

7 A Yes. She volunteered the information.

8 Q Was she being rude?

9 A Not that I recall. She was being

10 informative.

11 Q Was the tone of her voice discourteous

12 or uncourteous, unprofessional?

13 A No.

14 Q When you heard Sgt. Noorbergen and Ms.

15 Myers have their discussion, for want of another

16 way to put it, what kinds of voices were they

17 using?

18 A They started out in just a normal

19 tone. Then whatever they were talking about, both

20 of them had escalation in their voices.

21 Q Their voices escalated?

22 A Yes.

23 Q Were they loud?

24 A Yes.

25 Q Were they heated?

103

1 A Just elevated.

2 Q Now, how far away were you from these

3 ladies when they were having their discussion?

4 A Probably about 30 feet.

5 Q Was Ms. Myers as loud as Sgt.

6 Noorbergen was?

7 A Yes.

8 Q Now, you testified that you didn't see

9 any crowd gathering?

10 A That's correct.

11 Q From where you were standing and where

12 the SUV was parked, could you see up the alleyway?

13 A No.

14 Q Were you focusing primarily on Sgt.

15 Noorbergen anyway?

16 A That's correct.

17 Q Tell us, if you would, again what you

18 saw happen after Sgt. Noorbergen put Ms. Myers in

19 handcuffs. Tell us what happened as Sgt.

20 Noorbergen was attempting to walk Ms. Myers to the

21 patrol car.

22 A They had both started back up towards

23 the hill. Sgt. Noorbergen was trying to get her

24 to walk up the hill. Ms. Myers seemed to be

25 pulling away on each side. As she would turn one

1 way, Ms. Myers would turn the other opposite

2 direction, making it hard for her to get up the

3 hill.

4 Q She was apparently pulling away. Was

5 she actually trying to pull away?

6 A From what I saw, it looked like she

7 was pulling away.

8 Q Before that did you see Ms. Myers not

9 wanting to move her feet?

10 A I just remember her pulling away at

11 the middle of her torso.

12 Q Now, what did you do in response to

13 that?

14 A I still observed, and I knew that Sgt.

15 Noorbergen had backup on the way. I was just

16 watching in case she needed me to get on the radio

17 and step it up.

18 Q So you were watching in anticipation

19 of perhaps having to hurry the backup along?

20 A Right.

21 Q Why was that?

22 A Well, when somebody is struggling like

23 that, you don't know what they're going to do in a

24 split second. It could go either way.

25 Q From where you were standing 30 feet

105

1 away, watching this exchange, you thought she

2 might need backup sooner?

3 A Probably.

4 Q How far did Sgt. Noorbergen have to go

5 to take Ms. Myers from her vehicle to her patrol

6 car?

7 A About 20 feet.

8 Q Do you have any idea how much time it

9 took for her to cover that 20 feet?

10 A I would say at least 60 seconds, at

11 least.

12 Q From where you were observing, did it

13 appear to take Sgt. Noorbergen a great deal of

14 effort to cover that 20 feet?

15 A Yes.

16 Q Do you recall giving a statement in

17 this case to Sgt. Mincy at the internal affairs

18 office?

19 A Yes.

20 Q When did you give that statement?

21 A I believe January. I don't know the

22 exact date.

23 Q Could it have been December?

24 A Possibly.

25 Q In any case, was it approximately two



1 months after this arrest occurred?  
 2 A Yes.  
 3 Q Before you gave this statement did you  
 4 have an opportunity to refresh your recollection  
 5 or to give some thought to what all had happened?  
 6 A Not really.  
 7 Q Did you have any idea what questions  
 8 were going to be asked?  
 9 A No, sir.  
 10 Q Did Sgt. Mincy ask you the same kinds  
 11 of questions I'm asking you?  
 12 A In a way, yes.  
 13 Q In a way?  
 14 A Yes.  
 15 Q How were they different?  
 16 A He would ask me, you know, about the  
 17 footage also, how far it was. He asked me about  
 18 if there was any noise or screaming, things like  
 19 that.  
 20 Q By the way, when you were talking to  
 21 Sgt. Mincy, did you tell him that you were  
 22 actually standing quite a bit closer?  
 23 A Yes.  
 24 Q How close did you tell him that you  
 25 were standing?

1 A I believe ten or fifteen, because I'm  
 2 not real good with measuring distance. I have  
 3 since went back to the scene and walked it off  
 4 like that so I would know.  
 5 Q Since the time you gave your statement  
 6 to internal affairs, you have gone back and looked  
 7 at the scene?  
 8 A Yes.  
 9 Q Looking back, are you comfortably  
 10 certain you were 30 feet away?  
 11 A Yes. Uh-huh.  
 12 Q When Sgt. Mincy was asking you  
 13 questions, did he ask you the questions in as much  
 14 detail as I have been asking you?  
 15 A I don't remember.  
 16 Q Did you have an opportunity to go back  
 17 and look at the video statement that you gave Sgt.  
 18 Mincy?  
 19 A No.  
 20 Q Did he give you an opportunity to  
 21 review the summary you put together -- that he put  
 22 together? I'm sorry.  
 23 A No. That never came up.  
 24 Q Have you ever had an opportunity to  
 25 review either your video statement or the written

1 summary for accuracy and clarity?  
 2 A Yes.  
 3 Q When did you do that?  
 4 A I had a copy that Sgt. Noorbergen had.  
 5 Q So after the hearing, the first  
 6 hearing, you had a chance to review your statement  
 7 for the first time?  
 8 A Right.  
 9 Q What did you notice about that?  
 10 A I noticed that there was two  
 11 discrepancies in it that I was concerned about. I  
 12 wanted to clear it up and make sure everybody had  
 13 the facts.  
 14 Q What were those two discrepancies?  
 15 A Well, one of them had that there was  
 16 not any noise at all. I felt like I needed to  
 17 correct that because there were voices that were  
 18 elevated on both parts.  
 19 Q What was the second discrepancy?  
 20 A The other one was the part about the  
 21 resistance. It had just a -- I believe it was  
 22 just a simple sentence that said there was no  
 23 resistance on the part of Ms. Myers. I just  
 24 wanted to clarify that the way that she was moving  
 25 that day, with her going from side to side, I

1 thought that to be a form of resistance.  
 2 Q What did you do once you saw those  
 3 discrepancies?  
 4 A I had written a letter to my  
 5 lieutenant to clarify so he could send it to  
 6 internal affairs so there wouldn't be any question  
 7 about it.  
 8 MR. BENNETT: Mr. Chairman, may I  
 9 approach?  
 10 MR. FRANKLIN: Sure.  
 11 Q For the record, I'm showing you what  
 12 has been marked as Exhibit 14.  
 13 (Exhibit 14 was marked and received  
 14 into evidence.)  
 15 Q Ms. Kay, I'm showing you what appears  
 16 to be a note or memorandum prepared by you, dated  
 17 February 2nd, 2006, to Lieutenant Tom Kennedy. Is  
 18 that the note you were talking about?  
 19 A Yes, sir, it is.  
 20 Q You write, "It has come to my  
 21 attention concerning an internal affairs  
 22 investigation of Sgt. Leigh Taylor Noorbergen that  
 23 incorrect statements were made on my part. The  
 24 discrepancy appears in the summary of the written  
 25 investigation. It states that PST Kay observed

110

112

1 Ms. Myers being walked by Sgt. Noorbergen and did  
2 not see any resistance by Ms. Myers.

3 During my interview I did state that  
4 it appeared that Ms. Myers seemed to be pulling  
5 away from Sgt. Noorbergen and was not following  
6 her instructions to move her feet and walk to the  
7 patrol car. I feel like this should be cleared up  
8 pending the hearing that is coming up. I'm not a  
9 police officer and do not make arrests, but from  
10 where I was standing and what I observed, Ms.  
11 Myers appeared not to be in compliance with the  
12 orders she was being given by the officer.

13 Thank you and please see that the  
14 proper individuals receive this information.  
15 Patricia A. Kay."

16 Is that correct?

17 A That's correct.

18 Q I noticed here in this statement,  
19 actually you didn't mention unless I missed it  
20 that you felt like Ms. Myers was being loud. Was  
21 that an oversight on your part?

22 A No. It just came up before when we  
23 were talking about the voices being elevated.

24 Q But standing here today, do you think  
25 Ms. Myers was being loud?

1 A Right.

2 Q That's just part of your job, is to  
3 stand by, and if the officer needs help or needs  
4 backup, you would call for --

5 A Right.

6 Q Do you do that in any similar  
7 situation?

8 A Oh, yeah.

9 Q That's your training?

10 A Yes.

11 Q Let me show you again Exhibit 14. The  
12 first sentence says -- second part of it says that  
13 an incorrect statement has been made on my part;  
14 correct?

15 A Uh-huh.

16 Q You attribute what was in the internal  
17 affairs report to a misstatement on your part;  
18 correct?

19 A Right. I just wanted to clarify it.

20 Q Not to anything Sgt. Mincy or anything  
21 anybody else did as far as falsifying anything;  
22 correct?

23 A Right.

24 MR. PARKER: That's all.

25 RECROSS-EXAMINATION

111

113

1 A I wouldn't say loud. They were both  
2 in a heated discussion about whatever they were  
3 talking about.

4 Q Heated discussion, and her voice was  
5 as loud as Sgt. Noorbergen's?

6 A Right.

7 Q Did you have a followup response to  
8 this note?

9 A No.

10 Q Did anyone contact you to discuss it?

11 A No, sir.

12 MR. BENNETT: No further questions.

13 REDIRECT EXAMINATION

14 BY MR. PARKER:

15 Q Ms. Kay, did you ever call for any  
16 assistance for Sgt. Noorbergen?

17 A No, sir.

18 Q Did you ever make a call asking the  
19 backup officer who was already on the way to step  
20 it up?

21 A No, sir.

22 Q So Ms. Myers never did anything that  
23 caused you alarm?

24 A No.

25 Q So that you would make such a call?

1 BY MR. BENNETT:

2 Q Now, Ms. Kay, you testified that you  
3 didn't have to call dispatch to ask for backup to  
4 be stepped up; correct?

5 A Right.

6 Q In fact, as you were about to call for  
7 dispatch, you heard dispatch calling to check on  
8 Sgt. Noorbergen; correct?

9 A That's correct.

10 Q You didn't have to call because  
11 dispatch was on top of the situation?

12 A Right.

13 MR. BENNETT: No further questions.

14 MR. FRANKLIN: Any questions from the  
15 panel?

16 MS. BENNETT: I do have a question.  
17 Would you have called if you had not gotten a call  
18 that they were on the way? Was this a situation  
19 where you felt that you needed to make a call for  
20 backup in this situation?

21 THE WITNESS: No. At that point it  
22 wasn't. I was just observing in case it escalated  
23 to that point. It's just from being a dispatcher.

24 MR. FRANKLIN: I have one question.  
25 When you were testifying as it relates to the

1 process by which Sgt. Noorbergen had at that time  
2 arrested Ms. Myers and they were proceeding back  
3 to the patrol car, she had been instructed to walk  
4 backwards while Sgt. Noorbergen was bringing her  
5 back. You were saying there appeared to be some  
6 adjustments, I guess, that you could tell that  
7 there may have been or it could have been  
8 construed as being resistance to a certain degree.  
9 Could that have been in any way because of the  
10 awkwardness of the alleyway and/or the awkwardness  
11 of trying to measure your steps to get back when  
12 someone is pulling you back? I'm just trying to  
13 get clarification on what that was.

14 THE WITNESS: It could have been. I  
15 wasn't sure if she had told her to walk backwards  
16 or forward. I wasn't sure. I just saw that  
17 resistance from side to side.

18 MR. FRANKLIN: Anything further?

19 MR. BENNETT: If you would, clarify  
20 for us, ma'am. Was Ms. Myers being walked forward  
21 towards the car or was she being led backward?

22 MR. FRANKLIN: Backwards to the car?

23 THE WITNESS: That I'm not sure. She  
24 was walking forward when I saw her.

25 MR. FRANKLIN: Who was walking

1 forward?

2 THE WITNESS: Ms. Myers.

3 MR. FRANKLIN: While she was  
4 handcuffed?

5 THE WITNESS: Uh-huh.

6 MR. PARKER: You said when you saw  
7 her?

8 THE WITNESS: Right.

9 (Witness excused.)

10 (Recess taken.)

11 (Hearing in session.)

12 MR. FRANKLIN: At this time we will  
13 resume.

14 MR. PARKER: We'll call Sgt.  
15 Noorbergen.

16 LEIGH TAYLOR NOORBERGEN,  
17 called as a witness, having first been duly sworn,  
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PARKER:

21 Q You were sworn for this morning?

22 A Yes, sir.

23 Q State your name, please.

24 A Leigh Taylor Noorbergen.

25 Q You are employed at the Chattanooga

1 Police Department?

2 A Yes, sir.

3 Q How long have you been employed there  
4 as a police officer?

5 A Fifteen and a half years.

6 Q When were you promoted to Sergeant?

7 A Four and a half years ago  
8 approximately.

9 Q After you got out of the academy, if  
10 you would, take us through your career and  
11 different assignments.

12 A When I first got out of the academy I  
13 was assigned to patrol for five years at which  
14 time I was assigned to the gang unit for  
15 approximately two and a half years, and youth and  
16 family services about six months, then recruiting  
17 for close to five years. Then I got promoted to  
18 sergeant.

19 Q Since you have been a sergeant, you've  
20 been a patrol supervisor?

21 A Yes, sir.

22 Q Last October 12th do you recall the  
23 incident we've been talking about today?

24 A Yes, sir.

25 Q What was the purpose of your visit

1 there to the Kanku's Market?

2 A To get something to drink.

3 Q How long were you inside?

4 A About a minute or less.

5 Q And you heard Patt Kay's testimony  
6 today. You all just happened to run into each  
7 other that day there?

8 A Yes. We pulled in at the same time.

9 Q Did she pull in first or did you?

10 A I don't remember.

11 Q Have you seen these photographs that  
12 were marked as Exhibit 3?

13 A I have only seen one with myself in  
14 it. I don't remember which one it is.

15 Q Assuming Ms. Kay pulled in after you,  
16 there would have been room for you to have parked  
17 over here next to that wall on the left side of  
18 the photograph without blocking the alleyway; is  
19 that correct?

20 A I wasn't blocking the alleyway.

21 Q You weren't?

22 A No, sir.

23 Q Looking at 3A, how would a car get  
24 around your vehicle?

25 A Right here. You can't see but there

118

120

1 is plenty of room in between mine and PST Kay's  
 2 vehicle.  
 3 Q As shown on which one of these photos?  
 4 A You can't see it from the angle of the  
 5 shot.  
 6 Q But you say there was plenty of room  
 7 for a vehicle to get between your car and Patt  
 8 Kay's vehicle?  
 9 A Yes, sir.  
 10 Q How long were you inside?  
 11 A A minute or less.  
 12 Q When you came out had you seen Ms.  
 13 Myers' vehicle before that?  
 14 A No, sir.  
 15 Q Where was her vehicle when you came  
 16 out?  
 17 A I wasn't really paying attention. PST  
 18 Kay and I were having small talk, for lack of a  
 19 better term. My back was to my vehicle. I was  
 20 facing PST Kay.  
 21 Q How did you come to notice the Isuzu  
 22 Trooper?  
 23 A PST Kay whispered under her breath,  
 24 what's this nut doing taking pictures of your car.  
 25 I turned to look, and I laughed because I didn't

119

1 know why. I said I don't know.  
 2 Q That was the first time you had seen  
 3 the vehicle?  
 4 A Yes, sir.  
 5 Q The Isuzu Trooper?  
 6 A Yes, sir.  
 7 Q Where was Ms. Myers at that point?  
 8 A She was in the front of my -- to the  
 9 front and right of my vehicle.  
 10 Q Was she taking pictures?  
 11 A Yes, sir.  
 12 Q Did you ever ask her why she was  
 13 taking those pictures?  
 14 A No, sir.  
 15 Q Just take it from there and tell us  
 16 what happened next.  
 17 A PST Kay and I chitchatted a little  
 18 longer. I got in my vehicle to leave. PST Kay  
 19 was walking toward her vehicle. Once I got in my  
 20 car, I started it up. I was waiting on Ms. Myers,  
 21 who had walked back to her car and gotten in the  
 22 driver's side. I was waiting on her to pull out,  
 23 because she was blocking the alleyway and I  
 24 couldn't get through. I was waiting for her to  
 25 pull out so I could go down the alleyway.

1 I sat there for what seemed like a  
 2 minute or so. I noticed her getting back out of  
 3 the vehicle. When she got out she lifted her hood  
 4 up on her vehicle.  
 5 Q What did you do?  
 6 A At this point I think I had moved up a  
 7 couple of inches in my vehicle. When I saw the  
 8 hood go up on her car, I got out of my car and  
 9 approached her and asked what's the problem. She  
 10 totally ignored my question. I said, I need to  
 11 see your driver's license. I don't have one is  
 12 what she said to me.  
 13 I said, so you're driving without a  
 14 license?  
 15 She said, you didn't see me drive.  
 16 I said, but you got out of the  
 17 driver's side. You're driving without a license.  
 18 She started to turn and walk away. I said, you're  
 19 not free to leave, because at this point there  
 20 were several factors involved in why she was no  
 21 longer free to leave. She was taking pictures of  
 22 me. I didn't know why, but there is nothing  
 23 illegal about taking pictures of a police car.  
 24 That was no big deal. Given that and the fact  
 25 that she was ignoring my questions and was totally

121

1 unresponsive to me, I felt like I needed to  
 2 investigate the situation further.  
 3 I also needed to see if her vehicle  
 4 was really broken down. I didn't know if it was  
 5 or not. When I walked up there she had not  
 6 touched anything inside the engine. She was just  
 7 looking in it. As soon as I asked her for her  
 8 driver's license, she put the hood down.  
 9 Q Let me ask a question here. Was the  
 10 hood up when you first saw the vehicle?  
 11 A No, sir.  
 12 Q You saw her open it?  
 13 A Yes, sir.  
 14 Q Go ahead.  
 15 A I forgot where I was. Oh. So when I  
 16 told her she wasn't free to leave, she continued  
 17 to walk away. I ordered her to stop. She  
 18 refused. She started to open her driver's side  
 19 door. Due to the fact of officer safety  
 20 reasons -- I don't know this woman. She is being  
 21 evasive with me. She's unresponsive. I don't  
 22 know if she is going in that vehicle to get a  
 23 weapon. I don't know what she is doing. I don't  
 24 know if she is impaired or drunk or whatever. She  
 25 was just acting really peculiar to me.



122

124

1 So when I saw that she opened her  
2 door, I put my hand on it and shut it and told her  
3 again that she was not free to leave. I asked her  
4 what she was doing. She was screaming at me. I  
5 don't remember everything she said word for word,  
6 but she was screaming. What I mean by screaming,  
7 she was shouting. She was very loud. She was in  
8 my face. I felt threatened by her actions and  
9 tone of her voice.

10 I told her several times to calm down  
11 and lower her voice. She refused to do that. At  
12 this point I had a bad feeling about the  
13 situation, that it could get ugly, so I called for  
14 backup on the radio. As I was doing that I saw  
15 several people coming up from behind her vehicle  
16 in the alleyway like they were looking to see  
17 what's going on. So I made the decision at that  
18 time to put her in custody until I could figure  
19 out what the deal was, what she was doing there  
20 and what was going on.

21 At this point I didn't know anything  
22 about her mother, where she lived, anything like  
23 that. I just felt threatened. I didn't know if  
24 these people in the alleyway were her friends or  
25 what was going on. Essentially I was there by

123

1 myself. Once I decided to place her into custody,  
2 I told her to turn around and put her hands behind  
3 her back. She screamed again, for what.

4 I said, turn around and put your hands  
5 behind your back. She turned around and I grabbed  
6 her by the left wrist and placed one cuff on her  
7 and then placed the other one on her. I said,  
8 okay, come on. She just stood there and refused  
9 to walk. I said, ma'am, come on. I gently nudged  
10 her in the direction I wanted her to go, which was  
11 towards my car. I never pulled her back. I was  
12 prodding her along, trying to get her to walk in  
13 the direction she needed to walk. At one point  
14 told her to walk and she refused.

15 By this time the daughter had gotten  
16 out of the vehicle and came around to where we  
17 were. Due to my experience as a police officer, I  
18 felt like I was being outnumbered. They could  
19 have done anything at that point in time. I put  
20 my hand up and said get back because I'm still  
21 trying to deal with the mother at the time. She  
22 was struggling like she is trying to pull away  
23 from me. I continuously had to keep prodding and  
24 nudging her along to try and get her in the back  
25 of my car.

1 Also in my experience, I wanted to  
2 hurry up and get this over with as quick as  
3 possible, especially when there's people gathering  
4 around. You know, riots start that way. People  
5 get heated really quick. So I was trying to get  
6 the situation over with. She was not allowing me  
7 to do that. I was just trying to get her to go to  
8 my car. It seemed like forever, and she was  
9 resisting vigorously.

10 When we got to the front of her car,  
11 the daughter had gone back around to the car like  
12 I had asked her to do. When we got to the front  
13 Ms. Myers started struggling even harder with me,  
14 trying to pull away more. She was very forceful,  
15 a lot of energy. I was getting kind of worn out.  
16 Even though she was resisting and trying to pull  
17 away from me forcefully like that, I was still  
18 holding on and being able to maintain somewhat  
19 control.

20 Q Is that the first resistance that she  
21 gave, after she was handcuffed?

22 A No. When I told her to turn around  
23 and put her hands behind her back, I had to tell  
24 her more than once.

25 Q Did she then?

125

1 A Well, she turned around and put her  
2 hands right here to the side. I had to put her  
3 hands to her back.

4 Q Go ahead.

5 A When we were at the front of the car,  
6 that's where she really became extremely lively  
7 and was trying to pull away from me again. I had  
8 my hands on the cuffs in between her hands. In  
9 the beginning I had my hands on her left arm just  
10 below her elbow. I was gently pushing with my  
11 elbow, nudging, just trying to get her to walk  
12 forward. At one point I moved my hand up just to  
13 the back of her left shoulder right here so I  
14 could get a better grip and push her along so I  
15 could get her to the back of my car.

16 Once I got her to the back of the car,  
17 I noticed other people that had been pumping gas  
18 at the gas station. They were coming out and  
19 turning around, looking to see what was going on.  
20 It was making me nervous. Once I got her to the  
21 back of the patrol car --

22 Q That was after she was cuffed?

23 A Pardon?

24 Q That was after she was already  
25 handcuffed?



126

128

1 A What?

2 Q That these people were looking to see

3 what was going on?

4 A I don't know if it was before or not.

5 That's when I first saw them. So I get her to the

6 back of my patrol car. She is quite a bit bigger

7 than me, so it took a lot of energy on my part to

8 get her back there. I asked her to lie down on

9 the trunk of my car so that I could pat her down

10 properly and safely. In the meantime the

11 dispatcher calls me on the radio. She said, Bravo

12 63, is everything okay.

13 Well, it wasn't totally okay at that

14 point because she was still somewhat resistant at

15 that point. I said for now. Well, apparently the

16 dispatcher heard something in my voice because she

17 told my backup to step it up.

18 Ms. Myers refused to lie down on the

19 car. I had to put my hand on her back and another

20 nudge down to the car. Wasn't very forceful. It

21 wasn't slamming her or pushing her, nothing like

22 that. I just laid her down on the car and asked

23 her to spread her feet apart. She refused to do

24 that. I asked her again and she refused again. I

25 put my right foot inside her right foot and gently

127

1 spread her feet apart. I was able to pat her down

2 at that point with no further problem.

3 Once I finished patting her down and

4 was going to put her in the back of my car, I

5 escorted her around to the side of my car. I put

6 my hand on top of her head so she wouldn't hit her

7 head on the upper part of the door getting in the

8 car. That's normal that we conduct -- that's when

9 my backup arrived, after I got in the car.

10 Q What happened next?

11 A Once I got her in the back of the car,

12 I was getting into the driver's side of my car. I

13 believe it was the daughter that approached. She

14 was somewhat disturbed as well. I said, your

15 mother is under arrest. Ms. Myers told her

16 daughter to get her grandmother. Her grandmother

17 came back up there too. I told her the same thing

18 because I wanted to hurry up and get her out of

19 the situation. That's what we were trying to do,

20 get them in the car and go. We don't wait around

21 at the scene, that kind of thing. You just get in

22 the car and go, and that's what I was trying to

23 do. I advised them to speak to the other officer

24 that had pulled up and PST.

25 Q Did you tell either one, the daughter

1 or her mother that she was under arrest for

2 disorderly conduct?

3 A I don't remember.

4 Q So after you told them that, how long

5 was it after you answered that question that you

6 left?

7 A After I told them what?

8 Q That Ms. Myers was under arrest. How

9 long was it after that point that you left?

10 A Maybe 15 seconds.

11 Q So in other words, contrary to what

12 you said just a few minutes ago, this was not just

13 temporary custody to find out what was going on.

14 She was actually under arrest and was going to be

15 hauled off to jail as soon as you made the

16 decision to put those handcuffs on?

17 A No, sir. She became disorderly and

18 resisting arrest after that.

19 Q Didn't you say about three or four

20 minutes ago that you decided to take her into

21 custody, that it wasn't really an arrest, but you

22 wanted to find out what was going on?

23 A I never said it wasn't really an

24 arrest, sir.

25 Q I must have misunderstood you. The

129

1 decision was made immediately, and once you put

2 those handcuffs on her she was going to go to

3 jail; correct?

4 A I put the handcuffs on her because of

5 her behavior.

6 Q So you made the decision at that point

7 to --

8 A No, sir. So I could figure out what I

9 was going to do.

10 Q Okay. What did you do from that point

11 forward until the time you left Kanku's? What

12 exactly did you do to further investigate what was

13 going on? You haven't told us that you asked her

14 a single thing.

15 A I wasn't able to.

16 Q You just hauled her off to jail;

17 right?

18 A No, sir. She was screaming at me and

19 resisting arrest. I wasn't able to find out why

20 she was blocking the alleyway.

21 Q I know your attention was focused on

22 Ms. Myers and not PST Kay, but do you know about

23 how far PST Kay was from the scene?

24 A Which part of the scene?

25 Q When Ms. Myers was allegedly

130

132

1 screaming.  
 2 A Thirty to forty feet.  
 3 Q Don't you think it's somewhat odd that  
 4 she didn't hear anyone screaming?  
 5 A She did say our voices were loud.  
 6 Q In the academy and in subsequent  
 7 training that you've had, have you been taught the  
 8 importance of documenting things accurately?  
 9 A Yes, sir.  
 10 Q All your career you have been taught  
 11 that; correct?  
 12 A Yes, sir.  
 13 Q Why is that important?  
 14 A It's important so other people can  
 15 know the facts.  
 16 Q What is an affidavit of complaint?  
 17 A Basically it's an arrest report,  
 18 basically an arrest warrant.  
 19 Q Have you seen what has been marked  
 20 Exhibit 4?  
 21 A Yes, sir.  
 22 Q That's the affidavit of complaint that  
 23 you filled out that evening after your arrested  
 24 Ms. Myers?  
 25 A Yes, sir.

131

1 Q Where did you fill this out?  
 2 A At the jail.  
 3 Q The affidavit of complaint is the  
 4 basis upon which the prosecution will proceed;  
 5 correct? It sets out the probable cause to arrest  
 6 someone, doesn't it?  
 7 A Yes, sir.  
 8 Q It's important to be extremely  
 9 accurate in these documents, is it not?  
 10 A No, sir.  
 11 Q It's not?  
 12 A You don't have to go into great detail  
 13 in the affidavit of complaint. That's what court  
 14 is for.  
 15 Q That wasn't my question. My question  
 16 was, it's important to be accurate in what you say  
 17 in and affidavit; correct?  
 18 A You said extremely accurate or  
 19 something. It's important to be accurate.  
 20 Q This is the affidavit of complaint,  
 21 and that is given under oath, is it not?  
 22 A Yes, sir.  
 23 Q You swear that the facts in this  
 24 affidavit of complaint are true?  
 25 A Yes, sir, I do.

1 Q This is the document upon which the  
 2 prosecution proceeds?  
 3 A Yes, sir.  
 4 Q So it's important to be very accurate  
 5 in what you state in an affidavit of complaint, is  
 6 it not?  
 7 A Yes, sir.  
 8 Q Now let's take a look at this  
 9 affidavit. Look at page two of Exhibit 4 which is  
 10 just a somewhat enlarged copy of a narrative. Is  
 11 that your handwriting there?  
 12 A Yes, sir.  
 13 Q So it says on 10/12/05, which is  
 14 October 12th of 2005, at approximately 19:07  
 15 hours. That is 7:07 p.m.?  
 16 A Yes, sir.  
 17 Q I encountered the defendant in the  
 18 alleyway next to Kanku's at 1000 McCallie Avenue.  
 19 Is that correct?  
 20 A Yes, sir.  
 21 Q Then the next thing it says, she had  
 22 pulled her Isuzu Trooper into the alleyway. Okay.  
 23 Didn't you tell us just a few minutes ago that the  
 24 first time you saw the Isuzu Trooper was when Patt  
 25 Kay called your attention to it and you turned

133

1 around and saw it?  
 2 A Yes, sir.  
 3 Q That statement right there is  
 4 incorrect?  
 5 A No, sir.  
 6 Q How do you know she pulled the Isuzu  
 7 Trooper into the alleyway?  
 8 A Based on the facts that I was going on  
 9 at the time, I thought she had pulled the vehicle  
 10 in there. She got out of the driver's side and  
 11 got in the driver's side twice.  
 12 Q You assumed she had pulled the Trooper  
 13 in there?  
 14 A Based on the information that I had.  
 15 Q Yes or no, did you assume that?  
 16 A I assumed that based on the  
 17 information that I had.  
 18 Q It says, began taking pictures of me  
 19 with a digital camera; correct?  
 20 A Yes, sir.  
 21 Q I approached and asked her for her  
 22 driver's license or I.D. Correct?  
 23 A Yes, sir.  
 24 Q You didn't say anything at all in this  
 25 affidavit of complaint about calling or going up

134

136

1 to her and asking her if she needed assistance or  
 2 what was going on?  
 3 A No, sir.  
 4 Q She states she didn't have one.  
 5 Defendant turned around and walked away. I  
 6 advised her to stop, but she refused and tried to  
 7 enter vehicle. At this time she began to scream  
 8 at me. I told her not to enter vehicle, but she  
 9 continued to try. Is that correct?  
 10 A Yes, sir.  
 11 Q I shut the door before she could make  
 12 entry and advised her she was under arrest for  
 13 disorderly conduct.  
 14 A Yes, sir.  
 15 Q I ordered her to turn around with her  
 16 hands behind her back but again she refused.  
 17 Correct?  
 18 A Yes, sir.  
 19 Q And the last thing it says, I  
 20 attempted to place her in custody at which time  
 21 she resisted my efforts vigorously. Correct?  
 22 A Yes, sir.  
 23 Q Contrary to what you said a few  
 24 minutes ago, this says that she started to resist  
 25 your efforts vigorously at the time that you

135

1 attempted to place her in custody.  
 2 A I beg your pardon?  
 3 Q Was she in custody after she was  
 4 handcuffed?  
 5 A Yes, sir.  
 6 Q She wasn't in custody before she was  
 7 handcuffed, was she?  
 8 A No. She was not free to leave,  
 9 though.  
 10 Q You said, I attempted to place her in  
 11 custody at which time she resisted my efforts  
 12 vigorously. Does that imply to you as it does to  
 13 me that the vigorous resistance was before she was  
 14 handcuffed?  
 15 A No, sir. She resisted vigorously at  
 16 different times during the incident.  
 17 Q That's given under oath, is it not?  
 18 A Yes, sir. The Magistrate signed off  
 19 on it, too.  
 20 Q The magistrate released this woman on  
 21 her on recognizance; is that correct?  
 22 A I don't know, sir.  
 23 Q When did you find out that Ms. Myers  
 24 worked at the postal service?  
 25 A I believe after I got to jail, but I'm

1 not sure.  
 2 Q When you have multiple charges against  
 3 someone, do you know if they are required to post  
 4 bond for each of the charges?  
 5 A I don't know, sir. I'm not a lawyer,  
 6 sir.  
 7 Q Did you do a use of force report?  
 8 A No, sir, I didn't.  
 9 Q Why not?  
 10 A I didn't think about it because I used  
 11 very little force against her. So I didn't do  
 12 one.  
 13 Q You used very little force against  
 14 vigorous resistance?  
 15 A That's correct.  
 16 Q The fact that she raised her voice to  
 17 you, that constituted disorderly conduct, that and  
 18 the fact that she was taking pictures of your car?  
 19 A She refused to follow my instructions  
 20 when I told her she was not free to leave. She  
 21 was shouting at me. There was a crowd gathering  
 22 in the rear of her vehicle as well as by the gas  
 23 pumps at Kanku's.  
 24 Q Have you ever reviewed the disorderly  
 25 conduct statute that's marked Exhibit 7?

137

1 A Yes, sir.  
 2 Q Tell me, if you would in Exhibit 7  
 3 which specific part of that statute that she  
 4 violated and how.  
 5 A A person commits an offense who is in  
 6 public with intent to cause public annoyance and  
 7 alarm, engages in violent or threatening behavior.  
 8 That's one. She engaged in threatening behavior  
 9 and what I thought may have become violent. She  
 10 also -- Section B, a person also violates the  
 11 section who makes unreasonable noise which  
 12 prevents others from carrying out lawful  
 13 activities. That's when she was shouting and  
 14 causing a crowd to gather.  
 15 Q You're the only one who saw the crowd  
 16 gather; correct?  
 17 A No, sir. She saw it as well.  
 18 Q That was after she was handcuffed,  
 19 wasn't it?  
 20 A No, sir, not according to her  
 21 statement.  
 22 Q This case was set in court for  
 23 December 1st, wasn't it? You don't even know, do  
 24 you?  
 25 A I know when I saw that it was set. It

138

140

1 was originally set for November 10th at 1:30, the  
 2 1:30 docket. Then the next time that I saw, it  
 3 was scheduled for January 5th at 1:30. The 1:30  
 4 docket we're not supposed to go to. The only  
 5 docket that we go to is 8:30 in the morning. I  
 6 was not aware of a December 1st docket.  
 7 Q Have you ever bothered to check on the  
 8 status of the case?  
 9 A I checked periodically the dockets to  
 10 see when the court date was. I didn't think that  
 11 she would plead guilty. I thought if she went to  
 12 the 1:30 docket it would be reset.  
 13 Q How often did you check on it after  
 14 the arrest?  
 15 A I don't know how many times I checked.  
 16 Q During October, November, and December  
 17 how often did you check?  
 18 A I don't know how many times, because I  
 19 checked the docket quite often to see when the  
 20 officers who work under me, when their court dates  
 21 are.  
 22 Q December 7th, I believe, was the date  
 23 that you gave your statement to Sgt. Mincy?  
 24 A Yes, sir.  
 25 Q Did you tell him that you didn't have

1 resisted your arrest or that she resisted after  
 2 the arrest?  
 3 A She resisted arrest.  
 4 Q And you're familiar with the perjury  
 5 statute, aggravated perjury statute?  
 6 A Somewhat, yes, sir.  
 7 Q And aggravated perjury -- I'll let you  
 8 read along with me. A person commits an offense,  
 9 who with intent to deceive commits perjury as  
 10 defined in 39-16-7; and (2) the statement is  
 11 false, the false statement is made during or in  
 12 connection with an official proceeding and the  
 13 statement is material.  
 14 Is that correct?  
 15 A Yes.  
 16 Q This affidavit of complaint you signed  
 17 under oath?  
 18 A Yes, sir.  
 19 Q And that was in connection with the  
 20 prosecution of Valerie Myers?  
 21 A Yes, sir.  
 22 MR. PARKER: May I have just a moment,  
 23 please?  
 24 MR. FRANKLIN: Yes.  
 25 (There was a brief pause in

139

141

1 any idea what the status of the case was that day?  
 2 A Yes, sir.  
 3 Q So you hadn't checked too recently,  
 4 had you, on December 7th; correct?  
 5 A No, that's not true. What you just  
 6 said is not true.  
 7 Q Did you review the summary of the  
 8 radio traffic?  
 9 A I listened to the radio traffic.  
 10 Q Would you agree with me that it was  
 11 exactly two minutes after you said that you were  
 12 out with the party that you advised the dispatcher  
 13 that you had the party in custody?  
 14 A I don't remember.  
 15 Q Does that sound about right to you?  
 16 A I don't remember.  
 17 Q I'm asking you based upon your  
 18 experience. Were you there on the scene that day  
 19 approximately two minutes?  
 20 A Well, unless you're in that situation,  
 21 it's kind of hard to tell an accurate time frame.  
 22 Q Are you familiar with the statute on  
 23 resisting arrest?  
 24 A Yes, sir, somewhat.  
 25 Q Is it your contention that she

1 proceedings.)  
 2 MR. PARKER: That's all the questions  
 3 I have.  
 4 CROSS-EXAMINATION  
 5 BY MR. BENNETT:  
 6 Q Counsel asked you about the contents  
 7 of the facts section. In particular he asked you  
 8 if there was anything in here about your having  
 9 asked her if she needed assistance. There's  
 10 nothing like that in there, is there?  
 11 A No, sir.  
 12 Q Likewise, there is nothing in here  
 13 about her taking pictures of your vehicle, is  
 14 there?  
 15 A Yes. I think that is in there.  
 16 Q That she was taking pictures of your  
 17 vehicle?  
 18 A Yes.  
 19 Q So there is. I stand corrected.  
 20 There's nothing in here about your having made a  
 21 radio call to dispatch, saying that you were  
 22 checking a suspicious vehicle, is there?  
 23 A No, sir.  
 24 Q But you did that, didn't you?  
 25 A Yes, sir.



1 Q But you didn't include that in the  
 2 affidavit of complaint?  
 3 A No, sir.  
 4 Q Is there a particular reason you  
 5 didn't include that in the affidavit?  
 6 A I didn't think it was relevant at the  
 7 time.  
 8 Q Now, down at the bottom it says, I  
 9 attempted to place her in custody. Now, when you  
 10 state in custody, when you were trying to state  
 11 that, you were trying to take her to the car --  
 12 MR. PARKER: She wrote what she wrote.  
 13 If she wants to reinterpret what she wrote, I  
 14 object.  
 15 MR. BENNETT: Mr. Chairman, the issue  
 16 here is whether she falsified. The issue is what  
 17 is meant, did she intend to deceive. What she  
 18 means by the words she uses is very relevant.  
 19 MR. FRANKLIN: She can further explain  
 20 for clarification.  
 21 MR. BENNETT: Thank you, Mr. Chairman.  
 22 BY MR. BENNETT:  
 23 Q You attempted to place her in custody.  
 24 Now, as Counsel pointed out, she was already  
 25 handcuffed; correct?

1 A At which point?  
 2 Q Well, let's see. Was she resisting  
 3 your efforts vigorously before you cuffed her,  
 4 after you cuffed her, or both?  
 5 A A little of both.  
 6 Q A little of both. Okay. So when  
 7 you're talking about custody here, are you being  
 8 exclusive? Are you saying -- when you say  
 9 custody, does that mean when she's in the car,  
 10 does that mean when she's handcuffed, or is there  
 11 a particular meaning that you're giving to the  
 12 word custody?  
 13 A Custody to me is where I can have  
 14 control of the situation to evaluate it further.  
 15 Q And I guess whether someone is in  
 16 custody ultimately depends on the situation  
 17 itself?  
 18 A Yes, sir, it does.  
 19 Q Now, during the course of these  
 20 events, did you ever reach the conclusion that Ms.  
 21 Myers was, as Sgt. Mincy put it, being smart?  
 22 A No. I didn't know what she was doing.  
 23 Based on the facts that I had, I didn't know if  
 24 she had a mental illness or she was impaired,  
 25 intoxicated in any way. I didn't know if the

1 vehicle was really broken down. I felt like I had  
 2 a duty to find out if it was or not. If I was  
 3 able to find that out, that it was broken down, I  
 4 could have offered my assistance. She never  
 5 allowed me to do that.  
 6 Q Of course, you recall what Sgt. Mincy  
 7 said about -- in his report about you thought she  
 8 was being smart. Did you ever tell Sgt. Mincy  
 9 that?  
 10 A I don't believe I did.  
 11 MR. BENNETT: Mr. Chairman, may I  
 12 approach?  
 13 MR. FRANKLIN: Yes.  
 14 MR. BENNETT: I'll show the witness  
 15 what has been marked Exhibit 15.  
 16 MR. FRANKLIN: Let the record show  
 17 this is Exhibit 15.  
 18 (Exhibit 15 was marked and received  
 19 into evidence.)  
 20 BY MR. BENNETT:  
 21 Q Sgt. Noorbergen, do you recognize this  
 22 diagram?  
 23 A Yes, sir.  
 24 Q Did you prepare this diagram?  
 25 A Yes, I did.

1 Q Does this diagram to the best of your  
 2 knowledge and recollection depict the scene at the  
 3 time of the arrest?  
 4 A Yes, sir.  
 5 Q Now, unfortunately we don't have an  
 6 overhead. Where were you and Ms. Myers at the  
 7 time you were having your discussion?  
 8 A It started at the front of her  
 9 vehicle.  
 10 Q That vehicle is labeled Myers SUV?  
 11 A Correct.  
 12 Q Okay.  
 13 A Then went around to the driver's side  
 14 of Ms. Myers vehicle.  
 15 Q That would be where the "X" is next to  
 16 what you've labeled Myers SUV?  
 17 A Yes, sir.  
 18 Q Where were the individuals in the  
 19 alleyway?  
 20 A There's an "X" behind Ms. Myers'  
 21 vehicle, and that's where the people were that  
 22 were in the alleyway.  
 23 Q If you would, break it down for the  
 24 Council and tell us simply and succinctly why you  
 25 arrested Ms. Myers.



146

148

1 A Based on a number of factors. As you  
2 know, the whole incident started with Ms. Myers  
3 taking pictures of my patrol car, which I found  
4 odd because I didn't know why she was taking  
5 pictures. But I was going to let that go if she  
6 wanted to take pictures. Got in my car to leave  
7 and was trying to go about my business. As a  
8 supervisor, I'm not required to go out and make  
9 arrests and write tickets. I'm basically required  
10 to supervise. I don't make as many arrests as  
11 they do, but I do occasionally come across a  
12 situation where I have to make an arrest.

13 Once I got back into my vehicle to  
14 leave, I waited for a few minutes, waiting for her  
15 to pull out so I could go down through the  
16 alleyway because I thought she was leaving and she  
17 would be pulling forward. So I waited, it seems,  
18 like a long time. It probably wasn't but about a  
19 minute or two. I saw her get back out of the  
20 vehicle and pop the hood. So I got out of my car.

21 Based on her actions -- everything was  
22 suspicious to me, or peculiar is another word I  
23 guess. I felt like I needed to find out what was  
24 going on. I approached her in her vehicle. I  
25 said, what's the problem. She ignored me and

1 up in order to assess the situation accurately. I  
2 didn't want to get hurt.

3 I shut her door and I told her again  
4 she was not free to leave. I asked her, I said,  
5 why are you blocking the alleyway? At that point  
6 she got really angry. You could tell. She was  
7 shouting at me some more. I don't remember  
8 everything that she said on that date. She was  
9 shouting at me. When I saw people gathered in the  
10 alleyway, like I said, I knew I was outnumbered.  
11 I didn't know who those who people were. I didn't  
12 know if they were her buddies or family or what.

13 At that point, that's when I decided  
14 to take her into custody. I had to gain control  
15 of the situation before it got even more out of  
16 control. So that's what I did. I placed her in  
17 custody. I asked her twice -- had to ask her  
18 twice to turn around and put her hands behind her  
19 back. She didn't do it until the second time.  
20 She still didn't put her hands behind her back. I  
21 had to do that for her.

22 Q Sgt. Noorbergen, let me draw your  
23 attention back to the affidavit of complaint. You  
24 stated here that you screamed -- she screamed at  
25 you. Now, if you would tell us when you say she

147

149

1 didn't answer. I said, I need to see your  
2 driver's license.

3 She said, you didn't see me drive.  
4 She actually yelled that, you didn't see me drive.

5 I said, you got out of the driver's  
6 side of the vehicle.

7 She said, well, I don't have one.

8 I said, so you're driving without a  
9 license. Given that fact, along with everything  
10 else, now I had, I guess, probable cause or  
11 reasonable suspicion to prevent her from leaving  
12 the scene so that I could finish the investigation. I  
13 told her she was not free to leave. She turned to  
14 walk away from me, and I told her to stop. I  
15 yelled at her to stop. I had to yell at her  
16 because she was yelling at me, and I had to yell  
17 where she could hear me.

18 When we got back to the driver's side  
19 of the vehicle, she tried to open it. It's a  
20 scary situation when you're out there by yourself.  
21 You don't know this person. You don't know what  
22 they're going to get out of their vehicle. You  
23 don't know if it's a weapon. You just don't know.  
24 She could be the nicest person in the world, but  
25 you don't know her. You've got to keep your guard

1 screamed what you meant. What did you mean when  
2 you said she screamed?

3 A She shouted at me. She yelled at me.  
4 There's all kinds of different definitions for  
5 screaming. That's what I meant, she shouted, she  
6 yelled.

7 Q Being relative, were you also  
8 screaming at this lady?

9 A Yes, sir.

10 Q From your perspective were you  
11 screaming?

12 A Yes, sir, after she screamed at me.

13 Q Was she as loud as you were?

14 A Yes, sir.

15 Q You stated here that she resisted your  
16 efforts vigorously. Once again, what does  
17 vigorously mean?

18 A I take it to mean strong-willed,  
19 forcefulness, a lot of energy.

20 Q Again putting it in perspective, how  
21 much effort did it take you to get her from her  
22 car to your car?

23 A It took quite a bit of effort to get  
24 from her car to my car because at first she was  
25 refusing to walk. I had to nudge her along or

150

152

1 prod her along to get her to move. I even  
 2 verbally said walk to my car. She refused.  
 3 Q Let's break that down for the Council.  
 4 If you were just nudging her, can you explain to  
 5 us how she could have been resisting vigorously?  
 6 A At that point it was not vigorous. It  
 7 was the next point. It would go from vigorous to  
 8 more of a passive resistance to more vigorous.  
 9 Q I probably interrupted you. Go ahead  
 10 with that part of your description.  
 11 A Once we got to the front of her SUV,  
 12 she stopped again. She started doing like this,  
 13 just pulling away. I'm trying to hold onto her  
 14 handcuffs so that she can't get away. I didn't  
 15 know if she was going to run. I didn't know if  
 16 she was going to try to assault me. Police  
 17 officers have been assaulted many times after a  
 18 person is handcuffed. I was just trying to hold  
 19 on and get her to stop, you know, telling her the  
 20 whole time to stop, stop.  
 21 Q Sgt. Noorbergen, is that the point  
 22 where you're talking about vigorous resistance?  
 23 A Yes, sir.  
 24 Q Tell us what degree of force you used  
 25 or what degree of effort you used to maintain

1 got to your car were you tired?  
 2 A Oh, yes. I was very tired.  
 3 Q Were you winded?  
 4 A Yes, sir.  
 5 Q I don't mean to ask a personal  
 6 question, but at the time of this arrest about how  
 7 much did you weigh?  
 8 A Between 135 and 140.  
 9 Q And approximately how much did Ms.  
 10 Myers weigh?  
 11 A I would say around 200 maybe, maybe  
 12 less.  
 13 Q To your knowledge is that in the  
 14 affidavit?  
 15 A I don't remember.  
 16 Q Under the terms of police department's  
 17 policy, were you using what you would call a  
 18 soft-hand technique?  
 19 A Yes, sir.  
 20 Q As counsel pointed out, you didn't  
 21 file a use of force report. Why is that?  
 22 A It's not common practice to file a use  
 23 of force report every time you make an arrest, but  
 24 according to policy, I probably should have filed  
 25 a use of force report because it was using the

151

153

1 control of the situation.  
 2 A I was holding onto her. I was just  
 3 basically preventing her from actually pulling  
 4 away from me. I wasn't using any type of force  
 5 other than when I nudged her along to prod her  
 6 along. I was not using -- I was just holding on I  
 7 guess you could say.  
 8 Q When she was having this passive  
 9 resistance that you described, were you having to  
 10 nudge and prod? Is that when you're talking of  
 11 the nudging?  
 12 A Yes. That's when I was nudging her  
 13 and she stopped.  
 14 Q You weren't nudging her when she was  
 15 moving her arms from side to side?  
 16 A No, sir.  
 17 Q At that point you were just holding  
 18 her?  
 19 A Yes, sir.  
 20 Q When she was still and not moving,  
 21 that's when you were having to prod her forward?  
 22 A Yes, sir.  
 23 Q Rather than looking at each step from  
 24 car to car, let's assess the situation from the  
 25 time that you got to your car. By the time you

1 soft-hand techniques. I just really didn't think  
 2 about it. She was not injured. I was not  
 3 injured. I just really didn't think about it.  
 4 Q Now, you recall that Sgt. Mincy  
 5 interviewed you on December 7th, 2005 on this  
 6 matter?  
 7 A Yes, sir.  
 8 Q That was approximately two months  
 9 after this incident; is that correct?  
 10 A Yes, sir.  
 11 Q Did you have a chance to prepare for  
 12 the interview?  
 13 A No, sir, I didn't.  
 14 Q About how much advance notice did you  
 15 have of that interview?  
 16 A Maybe less than a day.  
 17 Q Before the interview had you been  
 18 given a copy of Ms. Myers' written complaint  
 19 against you?  
 20 A Right when I got there.  
 21 Q Right when you got there?  
 22 A Yes, sir.  
 23 Q That was as much advance notice of  
 24 what you were being questioned about as you had?  
 25 A I got a notice that there was going to

1 be an investigation.

2 Q After you gave the statement, did you  
3 have an opportunity to review Sgt. Mincy's notes?

4 A I reviewed his summary and his report  
5 to internal affairs.

6 Q Did you receive that before it was  
7 sent to the chief for disciplinary action?

8 A No, sir.

9 Q So before he submitted his final  
10 report, you didn't have a chance to review it at  
11 all?

12 A No, sir.

13 Q As we sit here today in this court-  
14 room, I realize this is a different environment.  
15 It's quieter. It's lit. As you look back on it,  
16 do you think that Ms. Myers was being disorderly?

17 A Yes, sir, I do.

18 Q Why is that?

19 A She refused to obey my orders first of  
20 all. She was unresponsive and ignoring me in the  
21 beginning, but when she did finally start to  
22 attempt to answer a question or make a statement,  
23 she was shouting at me. When I told her she  
24 wasn't free to leave, she refused to obey that  
25 order. Once we got around the side of her car,

1 she continued to shout at me. The crowd started  
2 to gather, and I felt threatened. She was being  
3 loud.

4 Q As we stand here today, and here  
5 again, I realize it's a different situation,  
6 looking back, do you believe that Ms. Myers  
7 resisted arrest?

8 A Yes, sir, I do.

9 Q Very succinctly, why do you think  
10 that?

11 A When I first told her that she was  
12 under arrest and asked her to put her hands behind  
13 her back, she refused. I asked her a second time  
14 to put her hands behind her back and she refused.  
15 I grabbed her arm and put one cuff on and then the  
16 other cuff on. Then she refused to walk even  
17 after I told her to walk. After I tried to nudge  
18 her forward, she still refused and shouted at me  
19 some more then. Then when she finally did walk  
20 with my urging, when we got in front of the  
21 vehicle she stops again and starts vigorously  
22 trying to pull away from me. I was just trying to  
23 hold on so she couldn't get away.

24 Once that part stopped and I was able  
25 to nudge her forward again to walk towards my car,

1 I still had to put an effort into getting her to  
2 do that. Then once at the back of my car, I  
3 believe I even sort of rested, holding onto the  
4 handcuffs and just kind of standing there for a  
5 minute, trying to catch my breath.

6 MR. BENNETT: Mr. Chairman, may I  
7 approach the witness?

8 MR. FRANKLIN: Yes.

9 (Exhibit 16 was marked and received  
10 into evidence.)

11 BY MR. BENNETT:

12 Q Let me show you what we've marked for  
13 evidence as Exhibit 16. Sgt. Noorbergen, tell me  
14 about your evaluations for this year. How did you  
15 do?

16 A This year it was strong. It was a 4.8  
17 out of a 5.00.

18 Q Five is the maximum possible score you  
19 can obtain?

20 A I'm sorry. It was 4.994.

21 Q Even with your suspension?

22 A Yes, sir.

23 Q The second page of the document I  
24 handed you is labeled as Chattanooga Police  
25 Department Report. It's your efficiency rating,

1 dated April 5. Is that the evaluation for this  
2 year?

3 A Yes, sir.

4 MR. FRANKLIN: Second page?  
5 THE WITNESS: Third page.

6 Q So your evaluation for this year was  
7 just under a five even with the suspension?

8 A Yes, sir.

9 Q How about your evaluation for the past  
10 years, how have you done?

11 A They -- in the past -- well, since I  
12 have been a supervisor, they have all been  
13 outstanding with the exception of this year.

14 Q Attached to that package you'll see  
15 evaluations for the past several years. Are these  
16 all your evaluations?

17 A Yes, sir.

18 Q By and large you've received  
19 outstanding evaluations, have you not?

20 A Yes, sir.

21 Q The first two pages I showed you  
22 appear to be your resume. It includes some  
23 citizen complaints, vehicle accidents, et cetera.  
24 Is this sort of your -- for want of another term,  
25 and this may be an incorrect term, an internal

1 affairs resume?

2 A Yes, sir.

3 Q Have you ever had a disciplinary

4 action sustained against you?

5 A No, sir.

6 Q Have you ever been accused of anger?

7 A No, sir.

8 Q Have you ever been accused of

9 falsehood?

10 A No, sir.

11 Q Has there ever been any kind of action

12 taken by the department against you that would

13 impune your integrity aside from this one

14 incident?

15 A No, sir.

16 Q Sgt. Noorbergen, can you tell us how

17 the suspension has affected you?

18 A Well, obviously monetarily it --

19 Q Take a minute if you need to.

20 A Monetarily it's been bad enough, but

21 the worst part is my character and integrity has

22 been dragged through the media. I have an

23 11-year-old son. I had to explain the situation

24 to him. I've worked hard in my 15 and a half

25 years to this department and this city. You can

1 tell by my record that I've never had a problem.

2 I've never had a discipline problem. Never had an

3 anger management problem.

4 For the 28 days I was off, I cried at

5 least once a day. I've never been through

6 anything like this in my life. I am a good

7 officer, and I go out there and I do a good job.

8 For somebody to say that I lied and that I

9 falsified an official document when I know in my

10 heart that is not true, you have no idea what that

11 does to you.

12 I've given numerous hours to this city

13 for free because I love my job, and I do it well.

14 I've had a lot of support through this, but still,

15 when you see your picture up there and the things

16 that were said, it's humiliating. My ex-husband

17 is trying to use it against me now to try to get

18 custody of our son. Given my record and my past,

19 I just don't understand it. I don't understand

20 how Chief Parks could have come to the conclusion

21 that he came to.

22 It's been really, really hard to deal

23 with. I'm back at work now. I've been back at

24 work for a couple of weeks. It's not the same. I

25 loved my job. I have been the happiest I've been

1 in the department in the last four and a half

2 years since I've been back out on the street as a

3 supervisor. It's just not the same.

4 MR. BENNETT: No further questions.

5 (Recess taken.)

6 (Hearing in session.)

7 REDIRECT EXAMINATION

8 BY MR. PARKER:

9 Q You were describing, were you not,

10 Sgt. Noorbergen, how this has affected you just

11 before we took our break?

12 A Yes, sir.

13 Q Have you thought at all about how this

14 episode has affected Valerie Myers?

15 A I'm not sure what you mean.

16 Q About how going to jail affects

17 somebody.

18 A Yes. Actually I have thought about

19 it.

20 Q You've thought about how it affected

21 her 18-year-old daughter?

22 A She could have prevented the incident.

23 Q The 18-year-daughter could have?

24 A No. Ms. Myers could have prevented

25 it.

1 Q You're not going to answer my

2 question?

3 A (No audible response.)

4 Q One other thing in the affidavit of

5 complaint again. She continued to try to enter

6 her vehicle. I shut the door before she could

7 make entry. I advised her she was arrest for

8 disorderly conduct. I ordered her to turn around

9 with her hands behind her back, but again she

10 refused.

11 That's what you wrote; correct?

12 A Yes.

13 Q You told her she was under arrest for

14 disorderly conduct even before you asked her to

15 turn around so you could handcuff her according to

16 the affidavit of complaint that you wrote that

17 night?

18 A Yes, sir.

19 MR. PARKER: That's all.

20 MR. FRANKLIN: Do we have questions

21 from council members?

22 MR. POWERS: I just wanted to ask

23 maybe one or two questions. That alley that you

24 were parked in, is it illegal to park in that

25 alley?



1 THE WITNESS: There's no signs that  
2 say no parking. I was further back from the  
3 actual alley. It's hard -- you can't tell from  
4 the picture. I was further back than -- when you  
5 first pull in is where Dairy Queen used to be.  
6 There's an arrow pointing east through the  
7 alleyway.

8 Let me explain the reason I was even  
9 parked there. When I go to Kanku's my usual  
10 parking place, if you look at the map, is on the  
11 other side of the store. On this night in  
12 particular the lottery amount was way up there.

13 Every space there was taken. I knew I wasn't  
14 going to be in there very long just to get a  
15 drink. Where I parked I wasn't blocking the  
16 alleyway. Vehicles could get in and out from  
17 where I was. With her blocking the alleyway,  
18 nobody could get around her.

19 MR. POWERS: Thank you.

20 MR. FRANKLIN: Did you have difficulty  
21 getting the handcuffs on her?

22 THE WITNESS: Yes, sir. I --

23 MR. FRANKLIN: I know what you said  
24 about your weight and I know what you said about  
25 her weight and the difficulty getting her down to

1 though?

2 THE WITNESS: Right.

3 MR. FRANKLIN: You are trained to  
4 still go ahead and make the arrest if you feel  
5 threatened?

6 THE WITNESS: Yes, sir, to try and  
7 hurry and get it done before they get closer  
8 because you don't know who they are.

9 MR. FRANKLIN: Okay. No further  
10 questions.

11 MR. POWERS: Sgt. Noorbergen, what  
12 time of day was it when the incident occurred?

13 THE WITNESS: Around 7:00 p.m.

14 MR. POWERS: In October had we gone  
15 back to -- was it still light then?

16 THE WITNESS: It was not totally dark,  
17 but not totally light, either.

18 MR. POWERS: The sun was going down  
19 but it --

20 THE WITNESS: Right. It was dark by  
21 the time we got to the jail, which took us five  
22 minutes after we left.

23 MR. POWERS: When you finally got Ms.  
24 Myers handcuffed and in the car, at what point did  
25 you call to see if there were outstanding warrants

1 the police car, but you didn't have any problems  
2 getting the handcuffs on her because she wasn't  
3 resisting arrest enough that you could get the  
4 handcuffs on her?

5 THE WITNESS: She wasn't resisting a  
6 great deal at that point, but she was showing  
7 quiet resistance. Somebody can actually still be  
8 resisting arrest after a handcuff.

9 MR. FRANKLIN: I just wondered if you  
10 had any problem getting the handcuffs on. You  
11 said you weighed 140 and she weighed about 200  
12 pounds?

13 THE WITNESS: The way she was shouting  
14 at me and was in my face, I felt threatened at  
15 that point. I didn't know what she was going to  
16 do.

17 MR. FRANKLIN: You also talked about  
18 how the crowd began to form and you felt  
19 threatened. I haven't been through the police  
20 academy and don't know what training is like.  
21 When you feel threatened do you still go on and  
22 make the arrest without calling backup?

23 THE WITNESS: I had already called for  
24 backup and they were on their way.

25 MR. FRANKLIN: You didn't have backup,

1 or anything of that nature? Was that done?

2 THE WITNESS: That was on my way to  
3 jail.

4 MR. POWERS: Okay. Would you say that  
5 this whole thing was kind of escalated by mannerisms and  
6 the way the conversation went as you moved  
7 forward? In other words, you don't feel that you  
8 had proper cooperation to be able to move through  
9 your questioning to begin to analyze what the  
10 actual problem was? Isn't that kind of how it  
11 escalated?

12 THE WITNESS: Yes, sir. Had she  
13 answered my questions to begin with, what's the  
14 problem, I need to see your driver's license, had  
15 she produced that stuff -- I ran her later to find  
16 out if she has a driver's license, and she does  
17 have a valid driver's license. She said on that  
18 day, I don't have one. Had she stopped and taken  
19 a moment to actually speak to me so I could get  
20 this information and find out if something was  
21 really wrong with her vehicle, even with her not  
22 having her driver's license, you know, I could  
23 have let that go as long as I knew she had one  
24 that was valid.

25 I couldn't get her to answer my



1 questions or speak to me or, you know, anything.  
 2 Then once I found out she didn't even have her  
 3 driver's license, and based on the facts of seeing  
 4 her get into the driver's side of the vehicle and  
 5 get out of the driver's side of the vehicle, you  
 6 know, the natural assumption was that she was  
 7 driving that vehicle. You can make a DUI on  
 8 something like that. If the keys are in the  
 9 ignition, they can be in the passenger seat,  
 10 parked and you can still arrest someone for DUI.

11 The way she was acting I thought was  
 12 very bizarre and unusual, and I didn't know if she  
 13 was impaired or on drugs or mentally ill. I  
 14 needed to find all that out. She didn't help me  
 15 find that out, and she didn't allow me to do my  
 16 job.

17 MR. POWERS: What is the difference  
 18 between taking somebody into custody and actually --  
 19 at what point do you move from taking somebody  
 20 into custody to physically arresting them? What  
 21 is that and where is that line crossed?

22 THE WITNESS: When you're in a  
 23 situation such as this that is very tense and  
 24 hostile and you're in fear, you have to think very  
 25 quickly. Everything happens very quickly. At the

1 point where she was loud and shouting at me and  
 2 the crowd was starting to gather and in my opinion  
 3 was driving without a license at that time, that  
 4 was my perspective at that time because I didn't  
 5 know any different. You know, I decided to take  
 6 her into custody in order to attempt to see what  
 7 was going on. Even once I took her into custody,  
 8 she still didn't calm down and do what she was  
 9 told to do in order for me to find out these  
 10 things.

11 MR. POWERS: Once she was handcuffed  
 12 and you had gotten her into the car, she is still  
 13 in custody at that particular point. So after she  
 14 is in the car and you started to get your breath  
 15 back and things calmed down a little bit and you  
 16 got better control of the situation; at that point  
 17 did you decide to go ahead with the arrest,  
 18 because it appears at this time from your  
 19 testimony, you'd had some difficulties in getting  
 20 her from one point to the car. And so in your  
 21 professional opinion that constituted resisting  
 22 arrest?

23 At some point could you have called  
 24 and gotten information about priors, about maybe  
 25 even evaluating whether the person was a victim or

1 under some kind of influence or something before  
 2 you left the scene, or did you feel threatened  
 3 enough based on your surroundings to go ahead and  
 4 get out of the situation and get to the precinct  
 5 where you could take further evaluation?

6 And the last thing, just a point of  
 7 clarification. Did the backup officer get there  
 8 before you left the scene?

9 THE WITNESS: Right before I left the  
 10 scene. To answer your other question, once she  
 11 started the resistance, that's when I made the  
 12 decision that she was definitely going to jail.  
 13 Had she not done that, I could have overlooked the  
 14 disorderly conduct and released her. Once she  
 15 started the passive and active resistance, I  
 16 pretty much felt that I didn't have a choice at  
 17 that time.

18 MR. POWERS: No further questions by  
 19 me.

#### 20 FURTHER REDIRECT EXAMINATION

21 BY MR. PARKER:

22 Q Did you stop and eat on the way to the  
 23 jail?

24 A No, sir.

25 Q Do these photographs accurately depict

1 the lighting conditions roughly at 7:00 p.m. on  
 2 October 12th, 2005?

3 A Like I said awhile ago, it was dark by  
 4 the time I got to the jail.

5 Q Do these photographs accurately depict  
 6 the lighting --

7 A I don't remember.

8 Q -- conditions at --

9 A No. I think it was a little darker.

10 Q Did you go strait to the jail?

11 A Yes, sir.

12 Q That's what, about a mile from this  
 13 location?

14 A I'm not sure. Five minutes.

15 Q In all these photographs I see clouds.  
 16 In the rest of them the sky is still light, is it  
 17 not?

18 A It was dark by the time I got to the  
 19 jail.

20 Q The sky is still light as shown in  
 21 these photographs, is it not?

22 A I was not at the jail at that point,  
 23 yes.

24 Q By the time it took you to drive about  
 25 a mile, it got dark?

170

172

1 A Yes, sir.  
 2 Q Have you ever heard of contempt of  
 3 cop?  
 4 A No, sir.  
 5 Q You don't know what contempt of cop  
 6 is?  
 7 A No, sir.  
 8 Q Somebody makes an officer mad and they  
 9 go to jail for disorderly conduct?  
 10 A No, sir.  
 11 Q You've never heard that at all?  
 12 A No, sir.  
 13 Q Before you placed Ms. Myers under  
 14 arrest for disorderly conduct, did you ask her  
 15 where her license was?  
 16 A No, sir. She didn't give me an  
 17 opportunity.  
 18 Q She didn't give you the opportunity to  
 19 ask her where her license was before you placed  
 20 her under arrest for disorderly conduct?  
 21 A That's correct, sir.  
 22 Q Let me make sure I understand the  
 23 sequence here. The affidavit of complaint says  
 24 that you told her she is under arrest for  
 25 disorderly conduct before you put the handcuffs on

171

1 her.  
 2 A Yes.  
 3 Q You told her to turn around?  
 4 A (No audible response.)  
 5 Q Then you told her to turn around and  
 6 be handcuffed?  
 7 A I told her to turn around and put her  
 8 hands behind her back.  
 9 MR. PARKER: That's all.  
 10 MS. BENNETT: I do have a question.  
 11 I'm not sure when the statement was made earlier,  
 12 but it was something about two minutes from the  
 13 time of the original call until the arrest. Can  
 14 you explain exactly what happened in that two  
 15 minutes, because that seems like a very, very  
 16 short time to process all of the information when  
 17 all this happened in two minutes. Did I hear that  
 18 correctly?  
 19 MR. PARKER: If I can ask her.  
 20 MS. BENNETT: Go ahead. Thank you.  
 21 FURTHER REDIRECT EXAMINATION RESUMED  
 22 BY MR. PARKER:  
 23 Q This is a summary prepared by  
 24 Christine Burke, who is the evening supervisor in  
 25 communications. Have you seen that report before?

1 A No, sir.  
 2 Q Were you Brave 63 that evening?  
 3 A Yes, sir.  
 4 Q This report indicates that at 19:05  
 5 and 57 seconds, which is 7:05 p.m. plus 7 seconds,  
 6 you advised you were getting out with a 433 in the  
 7 alleyway at McCallie and Central; correct?  
 8 A Yes.  
 9 Q And 433 is what?  
 10 A Suspicious person.  
 11 Q Is that pretty accurate to the best of  
 12 your recollection as far as the time?  
 13 A I didn't know what time it was at the  
 14 time.  
 15 Q If you could, look at the affidavit of  
 16 complaint and tell me what time the arrest was.  
 17 A It was 19.07. That's an approximate  
 18 time.  
 19 (Discussion ensued off the record.)  
 20 BY MR. PARKER:  
 21 Q That says 19:05 and 57 seconds. You  
 22 reported on your affidavit of complaint 19:07,  
 23 which is three seconds later?  
 24 A Approximately.  
 25 Q I understand that's an approximate

173

1 time.  
 2 MR. FRANKLIN: For the record, this is  
 3 Exhibit 17.  
 4 (Exhibit 17 was marked and received  
 5 into evidence.)  
 6 BY MR. PARKER:  
 7 Q That's pretty consistent with what you  
 8 put in your affidavit of complaint; correct?  
 9 A Yes.  
 10 Q Let me show you was has been marked  
 11 Exhibit 17. It indicates that at 19:07 and zero  
 12 seconds you asked the dispatcher to start another  
 13 car; correct?  
 14 A Correct.  
 15 Q That would be a minute and three  
 16 seconds after you said you were getting out with  
 17 this party?  
 18 A Correct.  
 19 Q Is that consistent with your  
 20 recollection of the timing?  
 21 A Yes, sir.  
 22 Q Then at 19:07 they asked you if  
 23 everything was okay and you said for now. Then at  
 24 19:07 and 57 seconds, which was exactly two  
 25 minutes after you first got out, you said,

1 negative, I've got one party in custody?  
 2 A Uh-huh.  
 3 Q Correct?  
 4 A Correct.  
 5 Q Is that consistent with your  
 6 recollection of the event?  
 7 A I guess. I'm assuming.  
 8 Q But the timing as far as all of this  
 9 stuff is consistent with the approximate time you  
 10 put on your affidavit?  
 11 A That's correct.  
 12 Q According to this anyway, from the  
 13 time you got out with her, you advised the  
 14 dispatcher you're getting out with the suspicious  
 15 party, until the time you got her in custody was  
 16 two minutes?  
 17 A Yes.  
 18 MR. PARKER: That's all.  
 19 MR. FRANKLIN: Anything further?  
 20 MR. BENNETT: I have nothing further.  
 21 STEVE PARKS,  
 22 called as a witness, having first been duly sworn,  
 23 testified as follows:  
 24 DIRECT EXAMINATION  
 25 BY MR. PARKER :

175

1 Q State your name for the record,  
 2 please.  
 3 A Steve Parks.  
 4 Q If you would, start out with when you  
 5 joined the police department.  
 6 A 1978.  
 7 Q If you would, kind of go through your  
 8 career with the Chattanooga Police Department.  
 9 A About eight years in patrol division  
 10 on midnight shift. I've had three years as a  
 11 background investigator and safety officer, eleven  
 12 years as a command officer over at internal  
 13 affairs division; about sixteen months as a sector  
 14 captain over Sector 2; and three years as deputy  
 15 chief over investigations and support; and little  
 16 over two years as chief of police.  
 17 Q You were appointed chief of police in  
 18 February of 2004 I believe?  
 19 A Yes.  
 20 Q Beginning February of 2004?  
 21 A Yes.  
 22 Q If you would, I'm going to turn it  
 23 over to you and ask you to explain to the council  
 24 members why you felt the disciplinary action in  
 25 this case was appropriate.

1 A Simply put, after an investigation by  
 2 internal affairs investigators, after a review by  
 3 the internal affairs captain, after a review by  
 4 the deputy chief over operations and also the  
 5 captain over Sector 1, which is Sgt. Noorbergen's  
 6 command officer; after an initial hearing with me  
 7 where I can talk to people and ask for information  
 8 and ask for discovery issues, review some  
 9 interviews and that sort of thing and ask  
 10 questions myself; after a second disciplinary  
 11 hearing with me and the command staff including  
 12 Sgt. Noorbergen; simply put, I came to the  
 13 conclusion that there was a reasonable lack of  
 14 factual basis to support the charge of disorderly  
 15 conduct and resisting arrest.  
 16 It was made worse that in my opinion  
 17 there was an enhancement in the actual affidavit  
 18 of complaint that supports an arrest warrant that  
 19 suggested there was a level of resistance that in  
 20 my opinion was not there.  
 21 Q Did you also feel that your review of  
 22 facts, these hearings -- did you also review some  
 23 of the videotaped statements of the witnesses?  
 24 A During the course of the first  
 25 disciplinary hearing that I held with Sgt.

177

1 Noorbergen and the entire chain of command  
 2 involved in this, there was a contention in part  
 3 that there were some discrepancies and that in  
 4 their there was not a match between the actual  
 5 summary report and what was said during the course  
 6 of the interviews that were recorded.  
 7 There was discovered that there was  
 8 another police officer that may have been on the  
 9 premises at the time when this occurred, and this  
 10 person had not been interviewed. So I asked for  
 11 three things. I asked for copies of the  
 12 interviews of Sgt. Noorbergen, PST Kay. I asked  
 13 for the investigator to go back and locate this  
 14 sergeant that may have been on the premises at the  
 15 time of this and interview with him to see if he  
 16 saw or heard anything that could add some weight  
 17 to this.  
 18 I also asked for a copy of the radio  
 19 traffic that we just talked about because, number  
 20 one, that's just good business. You want to  
 21 listen to the radio traffic, but also you want to  
 22 try and pick up on any background information and  
 23 background noise. While our officers are on the  
 24 radio, if someone is hollering in the background,  
 25 it's picked up. So I wanted to hear that. So I

1  
2 REPORTER'S CERTIFICATE

3 STATE OF TENNESSEE )

: SS.

4 COUNTY OF HAMILTON )

5 I, Connie F. Carpenter, the officer  
6 before whom the foregoing cause was taken, do  
7 hereby certify that the witnesses whose testimony  
8 appear in the foregoing transcript were duly  
9 sworn, and that the testimony of said witnesses  
10 was taken by me in machine shorthand, and  
11 thereafter reduced to typewriting;

12 That the exhibits annexed to this  
13 transcript are true, accurate, and the only  
14 exhibits introduced into evidence, and that the  
15 transcript was prepared under my personal  
16 supervision, and attached to this certificate and  
17 is a true, accurate and complete transcript as  
18 provided by law;

19 That I am neither counsel for, related  
20 to, nor employed by and of the parties to this  
21 action; and I further certify that I am not a  
22 relative or employee of any attorney or counsel  
23 employed by the parties hereto, nor financially or  
24 otherwise interested in the outcome of this  
25 action. The foregoing transcript is complete and  
accurate in all particulars as provided by law.

In witness whereof, I have hereunto  
set my hand this 28th day of December, 2006.

Connie F. Carpenter,  
Professional Court Reporter  
and Notary Public in the states  
of Tennessee and Georgia.